

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5 IN RE: NATIONAL : MDL NO. 2804
6 PRESCRIPTION OPIATE :
7 LITIGATION :

7 : CASE NO.
8 THIS DOCUMENT : 1:17-MD-2804
9 RELATES TO ALL CASES:

 : Hon. Dan A.
 : Polster

10 - - -

 Tuesday November 20, 2018

11 - - -

12 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
13 CONFIDENTIALITY REVIEW

14 - - -

15 Videotaped deposition of
16 MARK VERNAZZA, taken pursuant to notice,
17 was held at Zuckerman Spaeder, LLP,
18 1800 M Street NW, Suite 1000, Washington,
19 DC 2003, beginning at 9:13 a.m., on the
20 above date, before Amanda Dee
21 Maslynsky-Miller, a Certified Realtime
22 Reporter.

 - - -

23 GOLKOW LITIGATION SERVICES
24 877.370.3377 ph | 917.591.5672 fax
 deps@golkow.com

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 WEISMAN, KENNEDY & BERRIS CO., L.P.A</p> <p>4 BY: ERIC KENNEDY, ESQUIRE</p> <p>5 DANIEL P. GOETZ, ESQUIRE</p> <p>6 101 W. Prospect Avenue</p> <p>7 Midland Building, Suite 1600</p> <p>8 Cleveland, Ohio 44115</p> <p>9 (216) 781-1111</p> <p>10 Ekennedy@weismanlaw.com</p> <p>11 Dgoetz@weismanlaw.com</p> <p>12 Representing the Plaintiffs</p> <p>13</p> <p>14</p> <p>15 LEVIN PAPANTONIO THOMAS MITCHELL</p> <p>16 RAFFERTY PROCTOR PA</p> <p>17 BY: WILLIAM BAKER, ESQUIRE</p> <p>18 STEPHANIE HACKMAN, PARALEGAI</p> <p>19 316 South Baylen Street</p> <p>20 Pensacola, Florida 32502</p> <p>21 (850) 485-4160</p> <p>22 Wcb850@gmail.com</p> <p>23 Representing the Plaintiffs</p> <p>24</p> <p>15 MOTLEY RICE LLC</p> <p>16 BY: MICHAEL E. ELSNER, ESQUIRE</p> <p>17 MICHAEL HALL, ESQUIRE</p> <p>18 AMANDA UNTERREINER, PARALEGAL</p> <p>19 28 Bridgeside Boulevard</p> <p>20 Mount Pleasant, South Carolina 29464</p> <p>21 (843) 216-9000</p> <p>22 Melsner@motleyrice.com</p> <p>23 Representing the Plaintiffs</p> <p>24</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES: (Continued)</p> <p>2</p> <p>3 WILLIAMS & CONNOLLY, LLP</p> <p>4 BY: STEVEN M. PYSER, ESQUIRE</p> <p>5 725 Twelfth Street, N.W.</p> <p>6 Washington, DC 20005</p> <p>7 (202) 434-5000</p> <p>8 spyser@wc.com</p> <p>9 Representing the Defendant,</p> <p>10 Cardinal Health</p> <p>11</p> <p>12 REED SMITH, LLP</p> <p>13 BY: LINDSAY A. DEFRANCESCO, ESQUIRE</p> <p>14 1301 K Street, N.W.,</p> <p>15 Suite 1000 - East Tower</p> <p>16 Washington, D.C., 20005</p> <p>17 (202) 414-9200</p> <p>18 Ldefrancesco@reedsmith.com</p> <p>19 Representing the Defendant,</p> <p>20 Amerisource Bergen Drug</p> <p>21 Corporation</p> <p>22</p> <p>23 ZUCKERMAN SPAEDER LLP</p> <p>24 BY: ERIC R. DELINSKY, ESQUIRE</p> <p>BY: ALEXANDRA W. MILLER, ESQUIRE</p> <p>1800 M Street NW</p> <p>Suite 1000</p> <p>Washington, DC 20036</p> <p>(202) 778-1800</p> <p>Edelinsky@zuckerman.com</p> <p>Smiller@zuckerman.com</p> <p>Representing the Defendants,</p> <p>CVS Indiana, CVS RX Services</p> <p>and The Witness, Mark Vernazza</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES: (Continued)</p> <p>2</p> <p>3 GARSON AND JOHNSON LLC</p> <p>4 BY: JAMES A. DEROCHE, ESQUIRE</p> <p>5 101 W. Prospect Avenue</p> <p>6 Midland Building, Suite 1610</p> <p>7 Cleveland, Ohio 44115</p> <p>8 (216) 696-9330</p> <p>9 Jderoch@garson.com</p> <p>10 Representing the Plaintiffs</p> <p>11</p> <p>12 PELINI, CAMPBELL & WILLIAMS, LLC</p> <p>13 BY: GIANNA M. CALZOLA-HELMICK, ESQUIRE</p> <p>14 Bretton Commons</p> <p>15 Suite 400</p> <p>16 8040 Cleveland Avenue NW</p> <p>17 North Canton, Ohio 44720</p> <p>18 (330) 305-6400</p> <p>19 Giannac@pelini-law.com</p> <p>20 Representing the Defendant,</p> <p>21 Prescription Supply, Inc.</p> <p>22</p> <p>23</p> <p>24 COVINGTON & BURLING LLP</p> <p>BY: EMILY KVESELIS, ESQUIRE</p> <p>850 Tenth Street, NW</p> <p>Suite 856N</p> <p>Washington, DC 20001</p> <p>(202) 662-5000</p> <p>ekveselis@cov.com</p> <p>Representing the Defendant,</p> <p>McKesson Corporation</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES: (Continued)</p> <p>2 VIA TELEPHONE/LIVESTREAM:</p> <p>3</p> <p>4 JONES DAY</p> <p>5 BY: EDWARD M. CARTER, ESQUIRE</p> <p>6 325 John H. McConnell Boulevard</p> <p>7 Suite 600</p> <p>8 Columbus, Ohio 43215</p> <p>9 (614) 469-3939</p> <p>10 emcarter@jonesday.com</p> <p>11 Representing the Defendant,</p> <p>12 Walmart</p> <p>13</p> <p>14 MORGAN LEWIS & BOCKIUS, LLP</p> <p>15 BY: JOHN M. MALOY, ESQUIRE</p> <p>16 101 Park Avenue</p> <p>17 New York, New York 10178</p> <p>18 (212) 309-6000</p> <p>19 John.maloy@morganlewis.com</p> <p>20 Representing the Defendant,</p> <p>21 Rite Aid of Maryland</p> <p>22</p> <p>23</p> <p>24 MARCUS & SHAPIRA LLP</p> <p>BY: STEPHANIE M. WEINSTEIN, ESQUIRE</p> <p>One Oxford Centre</p> <p>35th Floor</p> <p>Pittsburgh, Pennsylvania 15219</p> <p>(412) 471-3490</p> <p>Weinstein@marcus-shapira.com</p> <p>Representing the Defendant,</p> <p>HBC Company</p>

Page 6		Page 8	
1	APPEARANCES: (Continued)	1	- - -
2	VIA TELEPHONE/LIVESTREAM:	2	E X H I B I T S
3		3	- - -
4	ZUCKERMAN SPAEDER LLP	4	
5	BY: GRAEME W. BUSH, ESQUIRE	5	NO. DESCRIPTION PAGE
6	1800 M Street NW	6	CVS-Vernazza
7	Suite 1000	7	Exhibit-16 CVS-MDLT1-000034175-177 397
8	Washington, DC 20036	8	CVS-Vernazza
9	(202) 778-1800	9	Exhibit-17 CVS-MDLT1-000024523-524 429
10	Gbush@zuckerman.com	10	CVS-Vernazza
11	Representing the Defendants,	11	Exhibit-18 CVS-MDLT1-000029864
12	CVS Indiana, CVS RX Services	12	With attachment 445
13	and The Witness, Mark Vernazza	13	CVS-Vernazza
14		14	Exhibit-18A CVS-MDLT1-000029864-866 432
15	CAVITCH FAMLO & DURKIN, CO., L.P.A.	15	CVS-Vernazza
16	BY: CHIP ERB, ESQUIRE	16	Exhibit-23 CVS-MDLT1-000034168-171 420
17	Twentieth Floor	17	CVS-Vernazza
18	1300 East Ninth Street	18	Exhibit-24 CVS-MDLT1-000075542 414
19	Cleveland, Ohio 44114	19	CVS-Vernazza
20	LWErb@cavitch.com	20	Exhibit-25 CVS-MDLT1-000029877-880 446
21	Representing the Defendant,	21	CVS-Vernazza
22	Discount Drug Mart	22	Exhibit-30 CVS-MDLT1-000057751-754 308
23		23	CVS-Vernazza
24	BARTLIT BECK LLP	24	Exhibit-31 CVS-MDLT1-000075299-312 317
	BY: ALEX J. HARRIS, ESQUIRE		CVS-Vernazza CVS-MDLT1-000076284-285
	1801 Wewatta Street		Exhibit-32 295
	Suite 1200		CVS-Vernazza
	Denver, Colorado 80202		Exhibit-34 CVS-MDLT1-000061097 266
	(303) 592-3100		CVS-Vernazza
	Alex.harris@bartlit-beck.com		Exhibit-40 CVS-MDLT1-000089188 300
	Representing the Defendant,		
	Walgreens		
	ALSO PRESENT:		
	Daniel Holmstock, Videographer		
Page 7		Page 9	
1	- - -	1	E X H I B I T S
2	I N D E X	2	- - -
3	- - -	3	
4	Testimony of: MARK VERNAZZA	4	NO. DESCRIPTION PAGE
5		5	CVS-Vernazza
6	By Mr. Kennedy 12	6	Exhibit-43 CVS-MDLT1-000081281 267
7		7	CVS-Vernazza
8	- - -	8	Exhibit-44 CVS-MDLT1-000089315-379 280
9	E X H I B I T S	9	CVS-Vernazza
10	- - -	10	Exhibit-45 CVS-MDLT1-000090853-854 238
11		11	CVS-Vernazza
12	NO. DESCRIPTION PAGE	12	Exhibit-46 CVS-MDLT1-000091508-518 119
13	CVS-Vernazza	13	CVS-Vernazza
14	Exhibit-1 United States Code -	14	Exhibit-48 CVS Controlled Drug Manual:
15	Section 823 76	15	Suspicious Order Monitoring
16	CVS-Vernazza	16	Procedure 285
17	Exhibit-3 CVS-MDLT1-000010552-555 100	17	CVS-Vernazza
18	CVS-Vernazza	18	Exhibit-49 CVS-MDLT1-000087889-890 254
19	Exhibit-4 CVS-MDLT1-000013534-536 135	19	CVS-Vernazza
20	CVS-Vernazza	20	Exhibit-65 CVS-MDLT1-000019722-786 150
21	Exhibit-6 CVS-MDLT1-000025204-259 205	21	CVS-Vernazza
22	CVS-Vernazza	22	Exhibit-93 CVS-MDLT1-000068377-381 182
23	Exhibit-7 CVS-MDLT1-000034234-300 229	23	CVS-Vernazza
24	CVS-Vernazza	24	Exhibit-103 Amended First Notice of
	Exhibit-8 CVS-MDLT1-000024877-941 274		Deposition Pursuant to Rule
	CVS-Vernazza		30(b)(6) and Document Request
	Exhibit-9 CVS-MDLT1-000088956-9025 304		Pursuant to Rule 30(b)(2)
	CVS-Vernazza		and Rule 34 to Defendant
	Exhibit-14 CVS-MDLT1-000034374		CVS Health Corporation 25
	With attachment 222		

Page 10

1	E X H I B I T S		
2	- - -		
3			
4	NO.	DESCRIPTION	PAGE
5	CVS-Vernazza		
6	Exhibit-104	Amended Second Notice of	
7		Deposition Pursuant to Rule	
8		30(b)(6) and Document Request	
9		Pursuant to Rule 30(b)(2)	
10		and Rule 34 to Defendant	
11		CVS Health Corporation	26
12	CVS-Vernazza		
13	Exhibit-105	9/21/18 Letter from	
14		Daniel Goetz to Eric	
15		Delinsky	27
16	CVS-Vernazza		
17	Exhibit-108	10/22/18 Letter from	
18		Daniel Goetz to Eric	
19		Delinsky	27
20	CVS-Vernazza		
21	Exhibit-111	CVS-MDLT1-000103859-867	426
22	CVS-Vernazza		
23	Exhibit-119	CVS-MDLT1-000012286	460
24	CVS-Vernazza		
	Exhibit-125	CVS-MDLT1-000034172;	
		Native	453

Page 11

1	- - -		
2	D E P O S I T I O N S U P P O R T I N D E X		
3	- - -		
4			
5	Direction to Witness Not to Answer		
6	Page Line	Page Line	Page Line
7	None		
8			
9			
10	Request for Production of Documents		
11	Page Line	Page Line	Page Line
12	None		
13			
14			
15	Stipulations		
16	Page Line	Page Line	Page Line
17	12	1	
18			
19			
20	Question Marked		
21	Page Line	Page Line	Page Line
22	None		
23			
24			

Page 12

1 - - -

2 (It is hereby stipulated and

3 agreed by and among counsel that

4 sealing, filing and certification

5 are waived; and that all

6 objections, except as to the form

7 of the question, will be reserved

8 until the time of trial.)

9 - - -

10 VIDEO TECHNICIAN: We are

11 now on the record. My name is

12 Daniel Holmstock. I'm the

13 videographer for Golkow Litigation

14 Services. Today's date is

15 November 20th, 2018. The time on

16 the video screen is 9:13 a.m.

17 This video deposition is

18 being held at Zuckerman Spaeder

19 LLP, 1800 M Street, Northwest,

20 Suite 1000, in Washington, D.C.,

21 in the matter of In Re National

22 Prescription Opiate Litigation

23 pending before the United States

24 District Court for the Northern

Page 13

1 District of Ohio, Eastern

2 Division. The deponent is CVS,

3 and representing CVS is Mr. Mark

4 Vernazza.

5 The court reporter is Amanda

6 Miller. Counsel will be noted on

7 the stenographic record. And

8 will, now, the court reporter

9 administer the oath?

10 - - -

11 MARK VERNAZZA, after having

12 been duly sworn, was examined and

13 testified as follows:

14 - - -

15 MR. KENNEDY: This is Eric

16 Kennedy, I represent the

17 plaintiffs in this litigation.

18 If we can go around the room

19 and everybody just introduce

20 themselves and let us know who you

21 represent, please.

22 MR. GOETZ: Dan Goetz,

23 plaintiffs.

24 MR. BAKER: William Baker,

Page 14

1 plaintiffs.
2 MR. DEROCHE: James DeRoche,
3 plaintiffs.
4 MR. ELSNER: Michael Elsner,
5 plaintiffs. And with me today are
6 Michael Hall and Amanda
7 Unterreiner.
8 MS. CALZOLA: Gianna Calzola
9 from Pelini Campbell & Williams on
10 behalf of Prescription Supply,
11 Inc.
12 MS. DEFRANCESCO: Lindsay
13 DeFrancesco, Reed Smith, on behalf
14 of Amerisource Bergen.
15 MS. KVESELIS: Emily
16 Kveselis, Covington & Burling, for
17 McKesson.
18 MR. PYSER: Steven Pyser,
19 Williams and Connolly, Cardinal
20 Health.
21 MS. MILLER: Sasha Miller,
22 Zuckerman Spaeder, on behalf of
23 CVS, Indiana, LLC and CVS RX
24 Services, Inc., and on behalf of

Page 15

1 the corporate designee, Mr. Mark
2 Vernazza.
3 MR. DELINSKY: Eric
4 Delinsky, of Zuckerman Spaeder on
5 behalf of CVS Indiana, LLC and CVS
6 RX Services Inc., and on behalf of
7 their corporate designee, Mark
8 Vernazza and Mr. Vernazza himself.
9 And just at the outset, I
10 would like to make clear that the
11 deposition is of CVS Indiana, LLC
12 and CVS RX, Inc., the two CVS
13 defendants named in the case.
14 MR. KENNEDY: Eric Kennedy
15 on behalf of plaintiffs.
16 The gentleman who manages
17 our exhibits is not here,
18 unexpectedly. We hope everything
19 is okay.
20 But because of that, we're
21 going to use paper exhibits. And
22 we're not going to be putting them
23 up on the screen. And we have an
24 agreement that those paper

Page 16

1 exhibits that we utilize,
2 thereafter, if this deposition is
3 played, the video will be played,
4 we will be allowed to use those
5 exhibits, split the screen and
6 highlight what is actually read
7 into the record and referenced by
8 the witness.
9 Agreeable?
10 MR. DELINSKY: Agreeable.
11 MR. KENNEDY: Great.
12 - - -
13 EXAMINATION
14 - - -
15 BY MR. KENNEDY:
16 Q. Sir, my name is Eric
17 Kennedy. We briefly met.
18 Could you please state your
19 full name for the record?
20 A. My full name is Mark Robert
21 Vernazza.
22 Q. And what is your
23 professional address, sir?
24 A. 1 CVS Drive in Woonsocket,

Page 17

1 Rhode Island.
2 Q. And who is your current
3 employer?
4 A. CVS Pharmacy, Inc.
5 Q. And what is your present
6 position with CVS Pharmacy, Inc.
7 A. Senior legal counsel.
8 Q. Tell me about your current
9 duties and responsibilities.
10 A. I assist the company
11 primarily with respect to litigation and
12 government investigations.
13 Q. And when you said "senior
14 legal counsel," that means you are a
15 lawyer?
16 A. I am a lawyer.
17 Q. You do not work, am I
18 correct, for either of the CVS defendants
19 in this case?
20 A. I may, from time to time,
21 perform services on behalf of those
22 entities. I'm not employed by those
23 entities.
24 Q. And when you provide

<p style="text-align: right;">Page 18</p> <p>1 services for those entities, CVS Indiana, 2 LLC and CVS RX Services, who pays you? 3 A. CVS Pharmacy, Inc. 4 Q. Tell me about your career, 5 if you can, briefly, with CVS. 6 A. I joined the company in 7 approximately January of 2014 as senior 8 legal counsel. I have remained in that 9 position until the present day. 10 Q. Have your responsibilities 11 as a lawyer at CVS, have they involved, 12 in any way, a suspicious order monitoring 13 of controlled substances? 14 MR. DELINSKY: I would 15 instruct the witness not to 16 answer, to the extent it calls for 17 attorney-client information. 18 BY MR. KENNEDY: 19 Q. And at all times, please, do 20 not answer any questions that you believe 21 or feel invade that privilege, all right? 22 A. Absolutely. 23 I have been part of a team 24 of lawyers in-house that advises the</p>	<p style="text-align: right;">Page 20</p> <p>1 some overlap? 2 A. CVS ceased the distribution 3 of hydrocodone combination products upon 4 those products being upscheduled to 5 Schedule II in October of 2014. That is 6 before I joined the company. 7 Q. All right. 8 A. Excuse me. I joined the 9 company before that time. 10 Q. Correct. Let's just cut to 11 the chase. 12 You've had no 13 responsibility, at any point in time, in 14 the creation, implementation or direct 15 management of any controlled substance 16 monitoring program at CVS; true? 17 MR. DELINSKY: Object to 18 form. 19 THE WITNESS: I'm not sure 20 that I can answer that question 21 without revealing privileged 22 communications. 23 BY MR. KENNEDY: 24 Q. Let me ask you, identify for</p>
<p style="text-align: right;">Page 19</p> <p>1 company with respect to litigation, 2 including this litigation, as well as 3 controlled substances matters more 4 generally. 5 Q. And that did not begin until 6 2014, would that be true? 7 A. That would be true. 8 Q. And your responsibilities 9 with respect to the monitoring of 10 suspicious orders, would I be correct 11 that those responsibilities did not begin 12 until after CVS stopped distributing 13 hydrocodone drugs to CVS pharmacies? 14 MR. DELINSKY: Object to 15 form. 16 THE WITNESS: I'm not a part 17 of the team that regularly reviews 18 suspicious orders. My 19 responsibility is providing legal 20 services with the company, 21 beginning upon my employment with 22 the company in January of 2014. 23 BY MR. KENNEDY: 24 Q. All right. So there was</p>	<p style="text-align: right;">Page 21</p> <p>1 me what controlled substance operating 2 policies and procedures that you wrote? 3 MR. DELINSKY: Object to 4 form. And I instruct the witness 5 not to -- 6 BY MR. KENNEDY: 7 Q. Prior to October of 2014, 8 tell me which ones you wrote. 9 A. Prior to October? 10 Q. Of 2014, yes. 11 MR. DELINSKY: Object to the 12 form of the question. And I 13 instruct -- I instruct the witness 14 not to answer, to the extent 15 answering requires the disclosure 16 of attorney-client privileged 17 information. 18 THE WITNESS: I don't recall 19 offering any controlled substance 20 policy with respect to suspicious 21 order monitoring, prior to October 22 of 2014. 23 BY MR. KENNEDY: 24 Q. You didn't operate -- you</p>

Page 22

1 didn't create or write any; would that be
2 true?
3 A. With respect to suspicious
4 order monitoring, that's correct.
5 Q. Your involvement with
6 suspicious order monitoring has always
7 been as a lawyer, correct?
8 A. That's correct.
9 Q. In 2006, where were you
10 working?
11 A. At a law firm in Boston.
12 Q. Any involvement with CVS in
13 2006?
14 A. Not to my recollection.
15 Q. When did CVS begin the
16 distribution of hydrocodone drugs to CVS
17 stores?
18 MR. DELINSKY: Object to the
19 form of the question.
20 Further object that -- to
21 the extent the question exceeds
22 the agreed-upon date limits of
23 this deposition, which are from
24 2006 through October 2014.

Page 23

1 MR. KENNEDY: You've
2 provided us transaction data
3 predating '06. So that's why I
4 believe that is within the scope
5 of what we're doing here today.
6 BY MR. KENNEDY:
7 Q. Do you know when CVS began
8 to distribute hydrocodone drugs to CVS
9 stores?
10 A. No, I don't.
11 Q. Were they doing it in '06?
12 A. Yes.
13 Q. Were they doing it prior to
14 '06?
15 A. My understanding is yes.
16 Q. Now, you've been asked to
17 provide testimony in response to 30(b)(6)
18 notices in this case.
19 Would that be correct?
20 A. Yes.
21 Q. And I'm going to mark those
22 exhibits, if we can.
23 MR. KENNEDY: Can we take a
24 break for a second?

Page 24

1 - - -
2 (Whereupon, a discussion off
3 the record occurred.)
4 - - -
5 VIDEO TECHNICIAN: The time
6 is 9:22 a.m. We're going off the
7 record.
8 - - -
9 (Whereupon, a brief recess
10 was taken.)
11 - - -
12 VIDEO TECHNICIAN: The time
13 is 9:31 a.m. We are back on the
14 record.
15 BY MR. KENNEDY:
16 Q. All right. Before we went
17 off the record, I asked you whether or
18 not you were here in response to 30(b)(6)
19 notices that had been served on CVS.
20 And your answer was that you
21 are, correct?
22 A. On behalf of CVS Indiana,
23 LLC and CVS RX Services, Inc., the
24 defendants in this case.

Page 25

1 Q. All right. I'm going to
2 refer to them as the CVS defendants; so
3 you'll know what I'm talking about when I
4 say CVS defendants, it will be those two
5 distributor entities that you just
6 described, all right?
7 A. That's fair.
8 Q. I'm going to give you CVS
9 Exhibit-103, I think we already have 103,
10 104, 105 and 108.
11 Is 103 the first amended
12 notice of deposition pursuant to Rule
13 30(b)(6)?
14 - - -
15 (Whereupon, CVS-Vernazza
16 Exhibit-103, Amended First Notice
17 of Deposition Pursuant to Rule
18 30(b)(6) and Document Request
19 Pursuant to Rule 30(b)(2) and Rule
20 34 to Defendant CVS Health
21 Corporation, was marked for
22 identification.)
23 - - -
24 THE WITNESS: I see that

<p style="text-align: right;">Page 26</p> <p>1 document, yes.</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. And 104 is the amended</p> <p>4 second notice of deposition pursuant to</p> <p>5 Rule 30(b)(6), correct?</p> <p>6 - - -</p> <p>7 (Whereupon, CVS-Vernazza</p> <p>8 Exhibit-104, Amended First Notice</p> <p>9 of Deposition Pursuant to Rule</p> <p>10 30(b)(6) and Document Request</p> <p>11 Pursuant to Rule 30(b)(2) and Rule</p> <p>12 34 to Defendant CVS Health</p> <p>13 Corporation, was marked for</p> <p>14 identification.)</p> <p>15 - - -</p> <p>16 THE WITNESS: I see that</p> <p>17 document as well.</p> <p>18 BY MR. KENNEDY:</p> <p>19 Q. And then we have 105 and</p> <p>20 108, which are two letters from our law</p> <p>21 firm which are amending and describing</p> <p>22 further these notices, correct?</p> <p>23 - - -</p> <p>24 (Whereupon, CVS-Vernazza</p>	<p style="text-align: right;">Page 28</p> <p>1 on behalf of CVS Health.</p> <p>2 Q. Let me ask you this: Did</p> <p>3 only employees of CVS Indiana, LLC and</p> <p>4 CVS RX Services, Inc. create, develop and</p> <p>5 manage the suspicious order monitoring</p> <p>6 policies between 2006 and 2014?</p> <p>7 MR. DELINSKY: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: To the best of</p> <p>10 my corporate knowledge, no. And</p> <p>11 to the extent that the services</p> <p>12 were performed by entities other</p> <p>13 than those two entities, on behalf</p> <p>14 of those two entities, to the</p> <p>15 topics that have been designated</p> <p>16 here, I'm prepared to provide</p> <p>17 testimony on that as well.</p> <p>18 BY MR. KENNEDY:</p> <p>19 Q. The other entities that</p> <p>20 would have provided services to the CVS</p> <p>21 defendants, with respect to the creation</p> <p>22 and management of suspicious order</p> <p>23 monitoring policies, would have been,</p> <p>24 number one, CVS Pharmacy, Inc., true?</p>
<p style="text-align: right;">Page 27</p> <p>1 Exhibit-105, 9/21/18 Letter from</p> <p>2 Daniel Goetz to Eric Delinsky, was</p> <p>3 marked for identification.)</p> <p>4 - - -</p> <p>5 (Whereupon, CVS-Vernazza</p> <p>6 Exhibit-108, 10/22/18 Letter from</p> <p>7 Daniel Goetz to Eric Delinsky, was</p> <p>8 marked for identification.)</p> <p>9 - - -</p> <p>10 THE WITNESS: I see two</p> <p>11 letters that I presume to be from</p> <p>12 your law firm, yes.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. And I think you've indicated</p> <p>15 that you are here in response to those</p> <p>16 notices, and you are speaking on behalf</p> <p>17 of CVS Indiana, LLC, correct?</p> <p>18 A. Yes. And CVS RX Services,</p> <p>19 Inc.</p> <p>20 Q. That we're going to refer to</p> <p>21 as the CVS defendants as we move forward.</p> <p>22 A. Yes.</p> <p>23 I just want to clarify this</p> <p>24 notice does say CVS Health. I'm not here</p>	<p style="text-align: right;">Page 29</p> <p>1 MR. DELINSKY: Object to the</p> <p>2 form.</p> <p>3 THE WITNESS: CVS Pharmacy,</p> <p>4 Inc. would have provided some of</p> <p>5 those services, yes.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. And CVS Pharmacy, Inc.,</p> <p>8 would that be the parent or the owner of</p> <p>9 the CVS defendants?</p> <p>10 A. Yes.</p> <p>11 Q. What other CVS entities</p> <p>12 provided services in the creation or the</p> <p>13 management of the suspicious order</p> <p>14 monitoring policies of the CVS</p> <p>15 defendants?</p> <p>16 MR. DELINSKY: Object to</p> <p>17 form.</p> <p>18 THE WITNESS: I don't have</p> <p>19 corporate knowledge that there</p> <p>20 were other such entities involved.</p> <p>21 There may have been, I don't have</p> <p>22 that knowledge at this point in</p> <p>23 time.</p> <p>24 BY MR. KENNEDY:</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. The first notice that we 2 marked as Exhibit-103, that asks that you 3 would come prepared to provide 4 testimony -- if you look at Page 6, that 5 you would come and be prepared to provide 6 testimony with respect to, A, your 7 past -- and "your" would be the CVS 8 defendants -- past, present suspicious 9 order monitoring system, SOMS program 10 policies and procedures, correct? 11 A. I see that language. 12 Q. And are you prepared to do 13 that today, to provide testimony with 14 regard to that topic that we've outlined 15 as A? 16 MR. DELINSKY: Before you 17 answer, Mr. Vernazza. 18 I would just like to put on 19 the record the fact that written 20 objections were served on 21 plaintiffs by the CVS defendants 22 as to both the first and second 23 notice, and additional 24 correspondence was sent by the --</p>	<p style="text-align: right;">Page 32</p> <p>1 present policies and procedures related 2 to due diligence following the detection 3 of a suspicious order, past or present? 4 MR. DELINSKY: Object to 5 form. And I simply incorporate, 6 by reference, the remarks I just 7 made regarding the scope of this 8 notice. 9 THE WITNESS: I am prepared 10 to testify as to the due diligence 11 and the process that CVS undertook 12 to identify and report suspicious 13 orders. 14 BY MR. KENNEDY: 15 Q. And if we look at H -- or, 16 excuse me, if we look at I, have you come 17 prepared to provide testimony and facts 18 with respect to the past, present policy, 19 procedure, standards and metrics used to 20 identify orders of unusual size, orders 21 deviating substantially from a normal 22 pattern, and orders of unusual frequency? 23 A. I have, again, prepared to 24 testify, on behalf of the CVS defendants,</p>
<p style="text-align: right;">Page 31</p> <p>1 by counsel for the CVS defendants 2 regarding the scope and objections 3 to the topics in the two notices 4 that have been marked as 5 Exhibits-103 and 104. 6 And, of course, there were 7 considerable verbal conversations 8 among counsel for the CVS 9 defendants and plaintiffs 10 regarding the scope of the 11 exhibits. Those are not part of 12 the record as of yet, and I simply 13 would note that the topics in the 14 two notices are subject to the 15 objections and subsequent 16 discussions among counsel. 17 BY MR. KENNEDY: 18 Q. If you'd look at H, if you 19 would, of this notice that was provided 20 to the CVS defendants. 21 And let me ask you, on 22 behalf of the CVS defendants, are you 23 prepared to provide testimony, 24 information and facts with respect to the</p>	<p style="text-align: right;">Page 33</p> <p>1 with respect to the policies -- 2 Q. So my answer would be yes -- 3 your answer would be yes? 4 MR. DELINSKY: Excuse me, 5 Mr. Vernazza, you can finish your 6 answer. 7 THE WITNESS: With respect 8 to the policies, practices and 9 procedures that CVS used to 10 identify and report suspicious 11 orders. 12 BY MR. KENNEDY: 13 Q. And that would include the 14 policies and procedures and metrics and 15 standards relating to the identification 16 of orders of unusual size, orders 17 deviating substantially from a normal 18 pattern and orders of unusual frequency; 19 is that true? 20 MR. DELINSKY: And I would 21 note again that these topics have 22 been narrowed and have been made 23 subject to objections and 24 discussion among counsel.</p>

Page 34

1 THE WITNESS: Again, the
2 suspicious order monitoring
3 processes and systems and due
4 diligence conducted in connection
5 with those is a topic that I have
6 undertaken to prepare to provide
7 testimony on today.
8 BY MR. KENNEDY:
9 Q. Would the answer to my
10 question then be yes?
11 A. I'm sorry, could you repeat
12 the question?
13 Q. I want you to listen very
14 carefully to my question, and there's no
15 need for you to repeat my question in
16 your answer, if it doesn't call for it,
17 all right?
18 My question is very simply,
19 Number I, part of the 30(b)(6) notice,
20 have you come prepared to provide
21 testimony with respect to the CVS
22 defendants' past, present, policy,
23 procedures, standards and metrics used to
24 identify orders of unusual size, orders

Page 35

1 deviating substantially from a normal
2 pattern and orders of unusual frequency?
3 MR. DELINSKY: I just
4 incorporate my comments again
5 regarding the scope of the notice.
6 THE WITNESS: I understand
7 that there's been some narrowing
8 among counsel as to the topics and
9 some objections as to the topics.
10 I am prepared to testify, on
11 behalf of the CVS defendants, with
12 respect to the company's
13 suspicious order monitoring
14 policies, procedures and
15 practices.
16 BY MR. KENNEDY:
17 Q. All right.
18 MR. KENNEDY: Could you read
19 my question back again?
20 I want you to listen to this
21 question very carefully. It's not
22 the one you're answering, but I
23 want you to answer my question.
24 - - -

Page 36

1 (Whereupon, the court
2 reporter read following part of
3 the record:
4 "Question: My question is
5 very simply, Number I, part of the
6 30(b)(6) notice, have you come
7 prepared to provide testimony with
8 respect to the CVS defendants'
9 past, present, policy, procedures,
10 standards and metrics used to
11 identify orders of unusual size,
12 orders deviating substantially
13 from a normal pattern and orders
14 of unusual frequency?")
15 - - -
16 MR. DELINSKY: I'd like to
17 object to form. I incorporate my
18 comments to the scope of the
19 notice.
20 And, Mr. Kennedy, I would
21 simply note that some, if not
22 many, of the topics set forth in
23 the notice that don't square with
24 what the CVS defendants did or

Page 37

1 didn't do, making it difficult to
2 answer in any way other than the
3 way that Mr. Vernazza already has
4 answered.
5 BY MR. KENNEDY:
6 Q. Do you want to incorporate
7 the objection into your answer?
8 A. I'm not sure what you mean
9 by that.
10 But to the extent that
11 objections have been made and agreements
12 have been made among counsel to narrow
13 the scope of the topics, I am prepared to
14 testify to that topic.
15 Q. All right. And how have
16 they been narrowed with respect to what
17 we just read? Have they been narrowed
18 with respect to I?
19 MR. DELINSKY: I'm
20 instructing the witness --
21 BY MR. KENNEDY:
22 Q. And I'm talking about -- and
23 I just want to know, from '06 to '14,
24 okay, '06 to '14, Number I, how have they

<p style="text-align: right;">Page 38</p> <p>1 been narrowed that it's going to limit 2 your preparation, your ability to provide 3 us with that testimony and that evidence? 4 MR. DELINSKY: And I would 5 instruct the witness not to answer 6 to the extent it discloses your 7 communications with counsel. 8 THE WITNESS: I've conducted 9 an extensive effort to prepare on 10 the topic of the suspicious order 11 monitoring policies, procedures, 12 practices on behalf of the CVS 13 defendants in preparation for this 14 deposition. 15 BY MR. KENNEDY: 16 Q. And did your preparation 17 include learning and understanding the 18 procedures in relation to unusual size, 19 frequency, and pattern with respect to 20 suspicious orders? 21 MR. DELINSKY: Object to the 22 form. 23 THE WITNESS: That's 24 included in the scope of my</p>	<p style="text-align: right;">Page 40</p> <p>1 preparation for the deposition. 2 I have sat with our current 3 suspicious order monitoring team and 4 watched them perform their work for a 5 good portion of a morning. 6 I have traveled to the 7 Indianapolis distribution center for the 8 purposes of observing their operations 9 and conducting interviews with personnel 10 at that facility. 11 There may be more, but 12 that's what comes to mind. 13 Q. And can you tell me how much 14 time you've put into educating yourself, 15 or being educated, with respect to the 16 suspicious order monitoring systems, 17 programs and procedures at the CVS 18 defendants? 19 A. I can't put a precise time 20 on it. The best of my estimation, the 21 amount of time I've spent preparing for 22 this deposition exceeds four weeks of 23 business days. 24 Q. Did you interview and spend</p>
<p style="text-align: right;">Page 39</p> <p>1 preparation. 2 BY MR. KENNEDY: 3 Q. That was easy, wasn't it? 4 We didn't have to take 20 minutes. 5 A. I'm just attempting to 6 answer your question. 7 Q. Work harder. 8 MR. DELINSKY: Objection. 9 Counsel. 10 BY MR. KENNEDY: 11 Q. Can you tell me what efforts 12 you or the CVS defendants have made to 13 provide you with information known or 14 reasonably available to the CVS 15 defendants with respect to the topics 16 that you're going to testify on? 17 A. Yes. I have conducted 18 interviews with current and former CVS 19 personnel. Those interviews number in 20 excess of 40 different individuals that I 21 have interviewed, many individuals on 22 multiple occasions. 23 I have undertaken a review 24 of a number of different documents in</p>	<p style="text-align: right;">Page 41</p> <p>1 time with Mr. Martoletti? 2 A. I did. 3 Q. And on how many occasions 4 did you speak with him? 5 A. More than one. 6 Q. And what about Ms. 7 Propatier, did you interview her? 8 A. I did. 9 Q. On how many occasions? 10 A. In preparation for this 11 deposition, I believe I interviewed Ms. 12 Propatier one time. 13 Q. And what about Mr. Devlin? 14 A. Yes. I interviewed Mr. 15 Devlin in preparation for this 16 deposition. I spoke with him more than 17 once in preparation. 18 Q. And where did you interview 19 or speak to Mr. Martoletti? 20 A. By telephone. 21 Q. And Mr. Devlin? 22 A. In person and by telephone. 23 Q. And Ms. Propatier, in person 24 or telephone?</p>

Page 42

1 A. In person.
2 Q. And you understand, as a
3 lawyer, that your testimony here does not
4 necessarily represent your knowledge but
5 represents the knowledge of the CVS
6 defendants? You understand that?
7 A. I understand that as the
8 30(b)(6) deponent here today.
9 Q. And you understand that your
10 testimony here today represents the
11 positions of the CVS defendants on the
12 topics that we're going to talk about?
13 You understand that?
14 MR. DELINSKY: Object to
15 form.
16 THE WITNESS: I understand
17 that I'm being asked to provide
18 corporate testimony.
19 BY MR. KENNEDY:
20 Q. And corporate testimony
21 means you're providing testimony on
22 behalf of the CVS defendant corporations?
23 A. That's my understanding.
24 Q. And let me ask you, if

Page 43

1 CVS -- if a CVS pharmacy, individual
2 pharmacy, wants to purchase OxyContin
3 from McKesson or a Cardinal distributor,
4 does that pharmacy place the order
5 directly with Cardinal or McKesson?
6 MR. DELINSKY: Object to
7 form. Outside the scope of the
8 deposition notice.
9 If you have corporate
10 knowledge, you may answer.
11 THE WITNESS: My
12 understanding is that, yes, they
13 would place that order directly
14 with Cardinal or McKesson.
15 BY MR. KENNEDY:
16 Q. And then the order of, let's
17 say, an OxyContin or Schedule II
18 controlled substance, that order would be
19 delivered directly from the distributor,
20 the outside distributor, McKesson or
21 Cardinal, directly to the pharmacy; is
22 that your understanding?
23 MR. DELINSKY: Objection to
24 the extent the question calls for

Page 44

1 information outside the scope of
2 the notice.
3 You may answer if you have
4 corporate knowledge.
5 THE WITNESS: That is my
6 understanding.
7 BY MR. KENNEDY:
8 Q. Now, with respect to
9 hydrocodone drugs, HCPs, I'm going to
10 call them hydrocodone drugs, when I call
11 them hydrocodone drugs, I mean HCPs, it's
12 a Schedule III, for the most part, what
13 we're going to talk about today, that's a
14 Schedule III narcotic; is that true?
15 A. Hydrocodone combination
16 products, yes, were Schedule III drugs up
17 through October of 2014.
18 Q. Now, the same process that
19 we just talked about, would that also be
20 the process where a CVS pharmacy wants to
21 purchase a hydrocodone drug from an
22 outside vendor or distributor such as
23 McKesson or Cardinal?
24 A. I don't think I understand

Page 45

1 your question, sir.
2 Q. If a CVS pharmacy, prior to
3 2014, wanted to purchase a hydrocodone
4 drug from an outside vendor, such as
5 McKesson or Cardinal, would that CVS
6 drugstore place the order directly with
7 the outside vendor, Cardinal or McKesson?
8 MR. DELINSKY: Object to
9 form. Object to the extent the
10 question calls for information
11 outside the scope of the notice.
12 You may answer to the extent
13 you have corporate knowledge.
14 THE WITNESS: So let me just
15 make sure I understand the
16 terminology in your question
17 first.
18 You're talking about
19 hydrocodone combination products?
20 There are, I believe, certain
21 hydrocodone-only products that
22 have always been Schedule II
23 products. So you're referring to
24 Schedule III --

<p style="text-align: right;">Page 46</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. When I say hydrocodone</p> <p>3 drugs, again, I'm talking about</p> <p>4 hydrocodone drugs, hydrocodone HCPs, I'm</p> <p>5 talking about the Schedule III that you</p> <p>6 folks were distributing to your own</p> <p>7 pharmacies.</p> <p>8 That's what we're here</p> <p>9 about, all right?</p> <p>10 A. Okay.</p> <p>11 Q. So my question is, when a</p> <p>12 CVS pharmacy, prior to 2014, wanted to</p> <p>13 order a hydrocodone drug from an outside</p> <p>14 vendor, an outside distributor, such as</p> <p>15 Cardinal, would that order be placed</p> <p>16 directly from the CVS pharmacy to that</p> <p>17 outside distributor?</p> <p>18 MR. DELINSKY: Same</p> <p>19 objection.</p> <p>20 THE WITNESS: If a CVS</p> <p>21 pharmacy, prior to October of</p> <p>22 2014, were to place an order for a</p> <p>23 hydrocodone combination product</p> <p>24 with Cardinal or McKesson, they</p>	<p style="text-align: right;">Page 48</p> <p>1 you have corporate knowledge.</p> <p>2 THE WITNESS: No.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. Between 2006 and '14, when a</p> <p>5 CVS pharmacy wanted to order hydrocodone</p> <p>6 drugs from a CVS distributor, tell me</p> <p>7 what the process was.</p> <p>8 A. The general process for a</p> <p>9 CVS pharmacy ordering a drug, such as a</p> <p>10 hydrocodone combination product, from a</p> <p>11 CVS distribution center would begin with</p> <p>12 an automated program known as the AMES</p> <p>13 system, which would calculate a suggested</p> <p>14 order for that pharmacy with respect to a</p> <p>15 particular drug for a particular ordering</p> <p>16 period.</p> <p>17 That suggested order would</p> <p>18 take into account certain historical</p> <p>19 dispensing information, as well as what</p> <p>20 the system understood to be the balance</p> <p>21 on hand, or inventory, of the product and</p> <p>22 would generate a suggested order to</p> <p>23 restore that pharmacy's inventory level</p> <p>24 to what would be called a target</p>
<p style="text-align: right;">Page 47</p> <p>1 would place that order directly</p> <p>2 with Cardinal or McKesson.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. And then the order for that</p> <p>5 hydrocodone drug from Cardinal, the</p> <p>6 outside vendor, would be delivered</p> <p>7 directly to the pharmacy, true?</p> <p>8 A. In an instance where a</p> <p>9 pharmacy ordered a hydrocodone</p> <p>10 combination product, prior to 2014 --</p> <p>11 October of 2014, from Cardinal or</p> <p>12 McKesson, my understanding is that</p> <p>13 Cardinal or McKesson would deliver that</p> <p>14 product directly to the pharmacy, yes.</p> <p>15 Q. Did either of the CVS</p> <p>16 defendants ever distribute controlled</p> <p>17 substances to any customer, any entity</p> <p>18 other than a CVS pharmacy, between '06</p> <p>19 and '14?</p> <p>20 MR. DELINSKY: Object to</p> <p>21 form. Object to the extent the</p> <p>22 question exceeds the scope of the</p> <p>23 deposition notices.</p> <p>24 You may answer to the extent</p>	<p style="text-align: right;">Page 49</p> <p>1 inventory level.</p> <p>2 The pharmacy would have the</p> <p>3 ability to modify that suggested order</p> <p>4 consistent with the needs of the</p> <p>5 pharmacy. At that point, the order would</p> <p>6 get passed through the mainframe computer</p> <p>7 system within the company, and then,</p> <p>8 subject to different suspicious order</p> <p>9 monitoring processes in place, to the</p> <p>10 warehouse for distribution.</p> <p>11 Q. The automated system that</p> <p>12 places the order through which the order</p> <p>13 would go to the distribution center, that</p> <p>14 AMES system, is that a system that was</p> <p>15 created and managed by CVS Pharmacy,</p> <p>16 Inc.?</p> <p>17 A. It was a CVS computer system</p> <p>18 managed by CVS. I don't have corporate</p> <p>19 knowledge as to whether CVS created the</p> <p>20 system or acquired the system from</p> <p>21 somebody else.</p> <p>22 MR. DELINSKY: And by "CVS,"</p> <p>23 do you mean CVS Pharmacy, Inc.?</p> <p>24 THE WITNESS: I do.</p>

<p style="text-align: right;">Page 50</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. So CVS Pharmacy would have</p> <p>3 created, acquired and managed that</p> <p>4 ordering system from the pharmacy to the</p> <p>5 distribution center, true?</p> <p>6 A. That's correct.</p> <p>7 Q. And then the distribution</p> <p>8 center, with respect to the hydrocodone</p> <p>9 drug, would ship directly to the CVS</p> <p>10 pharmacy?</p> <p>11 A. Yes. There are certain</p> <p>12 instances in which orders would be</p> <p>13 cross-docked, consistent with the DEA</p> <p>14 regulations, at another distribution</p> <p>15 center, but then sent along to that</p> <p>16 pharmacy.</p> <p>17 Q. Did any contracts exist</p> <p>18 between the distribution centers and the</p> <p>19 pharmacies with respect to the sale, the</p> <p>20 provision of the controlled substances?</p> <p>21 MR. DELINSKY: Object to</p> <p>22 form. Object to the question, to</p> <p>23 the extent it calls for</p> <p>24 information outside the notice as</p>	<p style="text-align: right;">Page 52</p> <p>1 combination products to that</p> <p>2 pharmacy.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. Who would the CVS pharmacy</p> <p>5 pay for the drugs that they were buying?</p> <p>6 MR. DELINSKY: Same</p> <p>7 objection, based on scope.</p> <p>8 THE WITNESS: I'm not sure I</p> <p>9 understand the question.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. If the CVS pharmacy</p> <p>12 purchases hydrocodone drugs, who do they</p> <p>13 pay for those drugs that they're</p> <p>14 purchasing?</p> <p>15 MR. DELINSKY: Object to</p> <p>16 form. Same objection as to scope.</p> <p>17 THE WITNESS: I do not have</p> <p>18 corporate knowledge that the CVS</p> <p>19 pharmacy itself would pay funds in</p> <p>20 connection with the receipt of</p> <p>21 those drugs.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Is that something that would</p> <p>24 be managed by CVS Pharmacy, Inc.?</p>
<p style="text-align: right;">Page 51</p> <p>1 agreed upon by counsel.</p> <p>2 You may answer if you have</p> <p>3 corporate knowledge.</p> <p>4 THE WITNESS: I don't have</p> <p>5 any corporate knowledge with</p> <p>6 respect to any such contracts.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. Who determined the -- let me</p> <p>9 ask you this: Would the CVS pharmacies</p> <p>10 actually pay the distribution center that</p> <p>11 they were purchasing the hydrocodone</p> <p>12 drugs from?</p> <p>13 MR. DELINSKY: Excuse me.</p> <p>14 Object to the question, insofar as</p> <p>15 it calls for information outside</p> <p>16 the scope of the notices.</p> <p>17 You may answer if you have</p> <p>18 corporate knowledge.</p> <p>19 THE WITNESS: To the best of</p> <p>20 my corporate knowledge, there</p> <p>21 would not be an exchange of funds</p> <p>22 between the pharmacy and the</p> <p>23 distribution center with respect</p> <p>24 to a shipment of hydrocodone</p>	<p style="text-align: right;">Page 53</p> <p>1 A. To the best of my corporate</p> <p>2 knowledge, yes.</p> <p>3 Q. CVS Pharmacy, Inc., would I</p> <p>4 be correct that they own, either directly</p> <p>5 or indirectly, all of the CVS pharmacies</p> <p>6 in the United States?</p> <p>7 MR. DELINSKY: Object to the</p> <p>8 form of the question. Object on</p> <p>9 scope grounds. This is outside</p> <p>10 the -- the question calls for</p> <p>11 information that's outside the</p> <p>12 scope of the agreed-upon topics</p> <p>13 for this deposition.</p> <p>14 This information, to the</p> <p>15 extent it's called for through the</p> <p>16 notice, it's called for by, I</p> <p>17 believe, Topic 2 of the second</p> <p>18 notice, which is, in the first</p> <p>19 instance, a topic to be answered</p> <p>20 in writing.</p> <p>21 You may answer to the extent</p> <p>22 you have corporate knowledge.</p> <p>23 THE WITNESS: To the best of</p> <p>24 my corporate knowledge at this</p>

<p style="text-align: right;">Page 54</p> <p>1 point in time, CVS Pharmacy, Inc. 2 owns, either directly or 3 indirectly, all of the CVS retail 4 pharmacies. 5 BY MR. KENNEDY: 6 Q. So CVS Pharmacy, Inc. would 7 own both the distribution centers we're 8 talking about and the pharmacies that 9 we're talking about; is that right? 10 MR. DELINSKY: Same 11 objection. 12 THE WITNESS: Not 13 necessarily. There are various 14 entities that may own pharmacies 15 in different locations. And there 16 are various entities that may own 17 distribution centers in different 18 locations. 19 Those entities ultimately 20 roll up to CVS Pharmacy, Inc., 21 either directly or indirectly. 22 BY MR. KENNEDY: 23 Q. Okay. So let me make my 24 question clear, then.</p>	<p style="text-align: right;">Page 56</p> <p>1 Q. To CVS pharmacies, correct? 2 A. Both of the CVS entities 3 named as defendants in this case are 4 distributors of controlled substances. 5 They are now, and have always been, only 6 distributors of Schedule III through V 7 controlled substances, and have never 8 been distributors of Schedule II 9 controlled substances. 10 Additionally, those entities 11 have only distributed controlled 12 substances to CVS pharmacies, to the best 13 of my corporate knowledge. 14 Q. So the answer to my question 15 would be yes, correct? 16 MR. DELINSKY: Object to 17 form. 18 THE WITNESS: I think the 19 answer to your question is the 20 answer I provided to your 21 question. 22 BY MR. KENNEDY: 23 Q. Well, the shortened version 24 would be yes, correct?</p>
<p style="text-align: right;">Page 55</p> <p>1 CVS Pharmacy, Inc. owns, 2 directly or indirectly, the 3 distribution -- let me go back. 4 CVS Pharmacy, Inc. owns, 5 directly or indirectly, both the 6 distribution centers we're talking about 7 and the CVS pharmacies across the 8 country, correct? 9 MR. DELINSKY: Same scope 10 objection. 11 THE WITNESS: While this is 12 not a topic that I undertook 13 preparation on for the purposes of 14 this deposition, to the best of my 15 knowledge, that is true. 16 BY MR. KENNEDY: 17 Q. Now, the two CVS defendants 18 both distribute controlled substances, 19 correct? 20 MR. DELINSKY: Object to 21 form. 22 THE WITNESS: Both of 23 these -- 24 BY MR. KENNEDY:</p>	<p style="text-align: right;">Page 57</p> <p>1 MR. DELINSKY: Object to the 2 form. 3 BY MR. KENNEDY: 4 Q. The two distribution centers 5 that we're talking about, the two CVS 6 defendants, distribute controlled 7 substances to CVS pharmacies; is the 8 answer to that yes? 9 MR. DELINSKY: Object to 10 form. The answer has already been 11 provided. 12 THE WITNESS: The answer is 13 that yes, insofar as we're talking 14 about Schedule III through V 15 controlled substances and only to 16 CVS pharmacies. 17 BY MR. KENNEDY: 18 Q. Unless I'm talking about -- 19 unless I specifically let you know, we're 20 talking about Schedule III hydrocodone 21 drugs, all right, that CVS distributed to 22 the CVS pharmacies, all right? 23 A. With respect to -- 24 MR. DELINSKY: Object to</p>

<p style="text-align: right;">Page 58</p> <p>1 form. And I don't think there's a 2 question pending, or is there? 3 BY MR. KENNEDY: 4 Q. Do you understand that 5 that's what we're here talking about? 6 We're talking about hydrocodone drugs 7 being distributed by CVS defendants to 8 the CVS pharmacies. 9 You understand that's kind 10 of the topic of the litigation here? 11 MR. DELINSKY: I would just 12 like to -- I object to form. It's 13 hydrocodone combination products. 14 BY MR. KENNEDY: 15 Q. When I say "hydrocodone 16 drugs," you know I'm talking about HCPs 17 or hydrocodone products, all right? You 18 understand that? 19 I think we kind of been 20 through that. 21 MR. DELINSKY: Object to -- 22 BY MR. KENNEDY: 23 Q. You understand that? 24 MR. DELINSKY: Object to the</p>	<p style="text-align: right;">Page 60</p> <p>1 A. We're talking about 2 controlled substances that are regulated 3 by the DEA and approved by the FDA. 4 We're not, of course, talking about 5 street drugs. 6 Q. I'm talking about the term 7 "drugs" that you and CVS used in every 8 one of its standard operating procedures. 9 Do you know what I'm talking 10 about? 11 A. I'm -- 12 Q. Do you know what I'm talking 13 about when I use the term "controlled 14 drugs"? Do you understand that? 15 MR. DELINSKY: Object to 16 form. If there's a document 17 you're referring to, please show 18 the witness. 19 BY MR. KENNEDY: 20 Q. Do you understand that? 21 A. If you're talking about 22 controlled drugs, I would understand you 23 to be talking about those medications 24 that are scheduled by the DEA as</p>
<p style="text-align: right;">Page 59</p> <p>1 shorthand that's being used in the 2 question. There's a question as 3 to whether they are drugs or 4 medicine. 5 BY MR. KENNEDY: 6 Q. Well, CVS refers to them as 7 drugs, don't they, in every one of their 8 standard operating procedures? 9 You've reviewed those. 10 Don't they refer to them as drugs? 11 A. Medications or drugs, 12 certainly. 13 Q. In fact -- 14 A. Everything CVS dispenses is 15 an FDA-approved medication. 16 But shorthand, in the 17 industry, may be drugs. 18 Q. Well, shorthand, every -- 19 what's the name of your -- the standard 20 operating procedures? Isn't it 21 controlled drugs? 22 A. Sure. 23 Q. Right. So that's a term 24 you're familiar with, right, drugs?</p>	<p style="text-align: right;">Page 61</p> <p>1 controlled substances. 2 When you say "controlled 3 substances," that may refer to a broader 4 class of controlled substances than 5 simply hydrocodone combination products. 6 Q. Did CVS, from '06 to '14, 7 understand that hydrocodone drugs were 8 highly addictive? Did they understand 9 that? 10 MR. DELINSKY: Object to the 11 form of the question. That is 12 outside the scope of the two 13 deposition notices. 14 To the extent the witness 15 has corporate knowledge, you may 16 answer. 17 THE WITNESS: Could you 18 repeat the question? 19 BY MR. KENNEDY: 20 Q. Did CVS, from 2006 to 2014, 21 did they understand that hydrocodone 22 drugs, HCPs, were a highly addictive 23 drug? 24 MR. DELINSKY: Same</p>

Page 62

1 objection.
2 THE WITNESS: CVS understood
3 that they were controlled
4 substances in Schedule III,
5 between 2006 and 2014.
6 MR. KENNEDY: Could you read
7 my question back, please?
8 I want you to answer my
9 question.
10 - - -
11 (Whereupon, the court
12 reporter read the following part
13 of the record:
14 "Question: Did CVS, from
15 2006 to 2014, did they understand
16 that hydrocodone drugs, HCPs, were
17 a highly addictive drug?"
18 - - -
19 MR. DELINSKY: Object to
20 form. Object on the grounds that
21 the question is outside the scope
22 of the deposition.
23 Further object on the
24 grounds that the question has been

Page 63

1 asked and answered directly.
2 THE WITNESS: CVS was
3 familiar with those drugs as being
4 controlled substances in Schedule
5 III. CVS was also aware that
6 controlled substances could be
7 abused or misused.
8 Beyond that, I'm not sure I
9 have corporate knowledge to answer
10 your question.
11 BY MR. KENNEDY:
12 Q. Did CVS understand, between
13 2006 and 2014, that there was an opioid
14 epidemic in the United States of America?
15 MR. DELINSKY: Object to
16 form. Object to the -- on the
17 grounds that that question is
18 outside the scope of the
19 deposition notices.
20 Mr. Kennedy, could you
21 please identify the topic to which
22 this question pertains?
23 MR. KENNEDY: Let me ask the
24 first question.

Page 64

1 BY MR. KENNEDY:
2 Q. Let me ask you this: If CVS
3 is writing, establishing and putting in
4 place suspicious order monitoring
5 policies, if they're doing that,
6 shouldn't they understand the existence
7 of an epidemic in relation to those
8 substances in the United States of
9 America?
10 MR. DELINSKY: Object to
11 form.
12 BY MR. KENNEDY:
13 Q. Can you answer that?
14 A. I'm not sure that I have
15 corporate knowledge with respect to that
16 question.
17 Q. So CVS has no position on
18 whether or not they should understand the
19 existence of an epidemic in relation to
20 the drugs that it is distributing --
21 MR. DELINSKY: Object to
22 the --
23 BY MR. KENNEDY:
24 Q. -- is that your position?

Page 65

1 Is that the position of CVS defendants in
2 this case?
3 MR. DELINSKY: Object to
4 form.
5 THE WITNESS: That is not
6 the position of CVS, as you've
7 characterized it.
8 I don't have corporate
9 knowledge to answer your question
10 throughout the time period that
11 you have set forth, in the manner
12 that you've set it forth.
13 It's not a topic that I
14 understood to be part of the
15 topics that I prepared for in the
16 course of preparing for this
17 deposition. And for that reason,
18 at this point in time, I don't
19 have corporate knowledge that can
20 respond to that question.
21 BY MR. KENNEDY:
22 Q. So let me ask you, you
23 didn't think you needed to understand and
24 know whether CVS was aware of an opioid

<p style="text-align: right;">Page 66</p> <p>1 epidemic during the period of time that 2 they are establishing, creating and 3 managing policies and procedures to limit 4 diversion in the shipping of suspicious 5 orders of the drugs? You didn't find a 6 need to prepare on that topic? 7 MR. DELINSKY: Object to 8 form. You're referring to a 9 topic, Mr. Kennedy. 10 I'm going to make my second 11 request for you to identify the 12 topic that questions regarding a 13 potential opioid epidemic pertain 14 to before we proceed any further. 15 MR. KENNEDY: And I'll go 16 back to my question. 17 BY MR. KENNEDY: 18 Q. Does CVS believe, does CVS 19 take the position that it was necessary 20 for them to understand the opioid 21 epidemic in this country when they were 22 writing policies and procedures to 23 monitor the drugs that they were selling 24 that were involved in this epidemic?</p>	<p style="text-align: right;">Page 68</p> <p>1 MR. DELINSKY: I object to 2 the form of the question. 3 MR. KENNEDY: That's fine. 4 MR. DELINSKY: You 5 effectively did. 6 MR. KENNEDY: If we could 7 just take a moment. 8 You know, the protocols with 9 respect to depositions say you are 10 allowed to object, but you are not 11 allowed to give a speech prior to 12 every single answer. You're not 13 allowed to do that. 14 You're allowed to object, 15 and that is all you're allowed to 16 do, in the protocols that we 17 absolutely, positively negotiated 18 for a long time. 19 This deposition is taking 20 twice as long as it needs to do, 21 because you are repeating my 22 question, and your objection is as 23 long as my question, for every 24 question. And I just don't think</p>
<p style="text-align: right;">Page 67</p> <p>1 MR. DELINSKY: Object to 2 form. Object on -- to the extent 3 it's outside -- insofar as it's 4 outside the scope of the 5 deposition notice. 6 THE WITNESS: The company 7 took steps to comply with the 8 Controlled Substances Act, with 9 the regulations promulgated under 10 the Controlled Substances Act, and 11 state law, and for its pharmacists 12 to dispense legitimate 13 prescriptions to patients for 14 the -- legitimate medical 15 purposes. 16 BY MR. KENNEDY: 17 Q. Did I ask you -- did I just 18 ask you whether or not they made efforts 19 to conform to the law? Did I ask you 20 that? 21 MR. DELINSKY: Object to the 22 form of the question. 23 BY MR. KENNEDY: 24 Q. Did I ask you that question?</p>	<p style="text-align: right;">Page 69</p> <p>1 you're allowed to do that. I 2 would ask that you stop doing 3 that. 4 MR. DELINSKY: Mr. Kennedy, 5 I think the record will speak to 6 itself on that subject, number 7 one. 8 Number two, we have asked 9 you now three times to identify 10 the topic to which this line of 11 questioning pertains, and you have 12 not identified one. 13 MR. KENNEDY: Very, very 14 simply. If you're writing 15 policies to monitor the drugs that 16 you're selling, you should know 17 about the death and the addiction 18 that those drugs are causing, when 19 you are writing those policies. 20 And the topic here is their 21 efforts to write those policies. 22 Now, if this witness 23 believes that CVS had no need to 24 know about the people that these</p>

<p style="text-align: right;">Page 70</p> <p>1 drugs were killing and addicting, 2 when writing those policies, then 3 he should say so, and I will move 4 on. 5 But if he agrees with me 6 that they should know about the 7 people that these drugs are 8 killing and addicting, when they 9 write their policies with respect 10 to the sale of these drugs to our 11 communities, then he should answer 12 the questions about what they knew 13 with respect to the epidemic. 14 That's very simple. 15 So I'll ask my question 16 again, and I want you to listen 17 carefully. 18 MR. DELINSKY: I -- 19 MR. KENNEDY: Go ahead. 20 MR. DELINSKY: Before you 21 do -- 22 MR. KENNEDY: Yes. 23 MR. DELINSKY: I object to 24 your commentary. It's laden --</p>	<p style="text-align: right;">Page 72</p> <p>1 2014, while they were creating, 2 preparing, managing their suspicious 3 order monitoring policy? 4 MR. DELINSKY: Object to 5 form. Object as outside the scope 6 of the notice. 7 THE WITNESS: That is not a 8 topic on which I have undertaken 9 preparation for this deposition, 10 and for that reason is a topic on 11 which I do not have corporate 12 knowledge to provide at this time. 13 BY MR. KENNEDY: 14 Q. Do you know whether or not 15 CVS was aware of the extent of the opioid 16 epidemic between 2006 and 2014, as a 17 distributor of opioids to CVS pharmacies? 18 MR. DELINSKY: Object to 19 form. Object as outside the scope 20 of the deposition notice -- 21 notices, plural. 22 THE WITNESS: To the best of 23 my corporate knowledge, CVS was 24 aware that hydrocodone combination</p>
<p style="text-align: right;">Page 71</p> <p>1 MR. KENNEDY: I object to 2 your -- 3 MR. DELINSKY: It's laden 4 with factual assumptions. It's 5 not appropriate for the deposition 6 to be giving speeches or opening 7 statements. 8 And I have now asked you for 9 a fifth time to direct us to the 10 particular topic to which you 11 believe this line of question 12 pertains so that we may evaluate 13 it. 14 MR. KENNEDY: And it's the 15 topics we read into the record. 16 Their policies and procedures with 17 respect to suspicious order 18 monitoring. 19 BY MR. KENNEDY: 20 Q. Let me ask you -- let me ask 21 you a very simple question. 22 Do you believe that CVS 23 should have been aware of the existence 24 of the opioid epidemic, between '06 and</p>	<p style="text-align: right;">Page 73</p> <p>1 products were Schedule III 2 products during that time period, 3 and that CVS took steps to comply 4 with the law with respect to 5 Schedule III controlled 6 substances. 7 MR. KENNEDY: Would you read 8 the question back, please? 9 MR. DELINSKY: Excuse me, 10 were you done with your answer? 11 THE WITNESS: Yes. 12 - - - 13 (Whereupon, the court 14 reporter read the following part 15 of the record: 16 "Question: Do you know 17 whether or not CVS was aware of 18 the extent of the opioid epidemic 19 between 2006 and 2014, as a 20 distributor of opioids to CVS 21 pharmacies?" 22 - - - 23 THE WITNESS: Again, Mr. 24 Kennedy, that is not a topic that</p>

<p style="text-align: right;">Page 74</p> <p>1 I understood to be part of the 2 noticed topics that I prepared for 3 in preparation for this 4 deposition. 5 So I don't have corporate 6 knowledge that I can provide on 7 the topic at this time. 8 MR. DELINSKY: And I would 9 just like to ensure that my -- I 10 objected on two grounds to that 11 same question and that those are 12 incorporated into the read back 13 question. 14 BY MR. KENNEDY: 15 Q. Did CVS know, by 2010, that 16 prescription drugs were killing more 17 people in America than heroin and cocaine 18 combined? 19 MR. DELINSKY: Object to 20 form. Object as outside the scope 21 of the notice. 22 I'd ask Mr. Kennedy, as to 23 this question, if he could 24 identify a particular topic in</p>	<p style="text-align: right;">Page 76</p> <p>1 identify a topic to which your 2 questions about CVS's knowledge 3 about the opioid epidemic pertain. 4 And if you identify it, we, of 5 course, will consider it. But you 6 haven't identified one. 7 BY MR. KENNEDY: 8 Q. We're going to take a look 9 at Exhibit-1. 10 - - - 11 (Whereupon, CVS-Vernazza 12 Exhibit-1, United States Code - 13 Section 823, was marked for 14 identification.) 15 - - - 16 BY MR. KENNEDY: 17 Q. Have you seen this before, 18 Exhibit-1? 19 A. I haven't seen this 20 particular printout before. But I 21 presume this to be a printout from the 22 Controlled Substances Act, resources on 23 the DEA website. 24 Q. Does it say Title 21, United</p>
<p style="text-align: right;">Page 75</p> <p>1 your notices to which this 2 question pertains. 3 THE WITNESS: Again, that is 4 not a topic that I undertook to 5 prepare on in advance of this 6 deposition. CVS was aware of 7 hydrocodone combination products 8 being Schedule III controlled 9 substances. CVS was aware, and 10 has been aware at various times, 11 that those products can be abused 12 and misused. 13 MR. KENNEDY: We need to 14 call the Special Master, just to 15 try to get the parameters down. 16 Can we take a break? 17 MR. DELINSKY: I think 18 they're in court. 19 - - - 20 (Whereupon, a discussion off 21 the record occurred.) 22 - - - 23 MR. DELINSKY: Mr. Kennedy, 24 again, I've asked you for -- to</p>	<p style="text-align: right;">Page 77</p> <p>1 States Code, Controlled Substances Act? 2 A. That's what it says. 3 Q. Are you familiar with that 4 act? 5 A. I am generally familiar with 6 the Controlled Substances Act, yes. 7 Q. Did you review that in 8 preparation for your understanding of the 9 testimony you would be providing today? 10 A. I have reviewed certain 11 components of the Controlled Substances 12 Act. 13 Q. When did CVS, the CVS 14 defendants, first become aware of the 15 Controlled Substances Act of 1971? 16 MR. DELINSKY: Object to 17 form. It's outside the scope of 18 the notice. 19 THE WITNESS: I have no 20 corporate knowledge that CVS has 21 ever been unaware of the 22 Controlled Substances Act. 23 BY MR. KENNEDY: 24 Q. Should they have been aware</p>

<p style="text-align: right;">Page 78</p> <p>1 of it in 2006?</p> <p>2 A. I understand that in 2006</p> <p>3 CVS was aware of the Controlled</p> <p>4 Substances Act.</p> <p>5 Q. Did you hear my question?</p> <p>6 MR. DELINSKY: Object to</p> <p>7 form.</p> <p>8 THE WITNESS: I thought I</p> <p>9 answered it.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. My question was, should CVS</p> <p>12 have been aware of the Controlled</p> <p>13 Substances Act in 2006?</p> <p>14 MR. DELINSKY: Object to</p> <p>15 form. Asked and answered.</p> <p>16 BY MR. KENNEDY:</p> <p>17 Q. I didn't ask you whether</p> <p>18 they were, I asked you should.</p> <p>19 Should they have been aware</p> <p>20 of it in 2006, the Controlled Substances</p> <p>21 Act? Should they have been?</p> <p>22 A. As a --</p> <p>23 MR. DELINSKY: Excuse me.</p> <p>24 Object to form. Object as</p>	<p style="text-align: right;">Page 80</p> <p>1 something on which I have</p> <p>2 corporate knowledge.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. Look at Number E, if we can</p> <p>5 scroll down.</p> <p>6 Look at E, if you would,</p> <p>7 E(1).</p> <p>8 A. I just need to take a minute</p> <p>9 to review the rest of the document, if</p> <p>10 you would.</p> <p>11 Q. All of E, please. All of E</p> <p>12 plus (1).</p> <p>13 Now, E, E is titled,</p> <p>14 Distributors of Controlled Substances in</p> <p>15 Schedule III, IV or V.</p> <p>16 Do you see that?</p> <p>17 A. Yes. If you could wait just</p> <p>18 a second. I'm still reviewing the</p> <p>19 document.</p> <p>20 Yes, sir. I'm ready for</p> <p>21 your question.</p> <p>22 Q. E is titled, Distributors of</p> <p>23 Controlled Substances in Schedules III,</p> <p>24 IV and V, correct?</p>
<p style="text-align: right;">Page 79</p> <p>1 outside the scope of the notice.</p> <p>2 Object as outside the scope of</p> <p>3 Special Master Cohen's rulings on</p> <p>4 the deposition notices. And</p> <p>5 object on the grounds that the</p> <p>6 question has been asked and</p> <p>7 answered.</p> <p>8 THE WITNESS: In 2006, CVS</p> <p>9 was a DEA registrant in a number</p> <p>10 of different capacities, and so</p> <p>11 surely CVS would have been aware</p> <p>12 of the Controlled Substances Act,</p> <p>13 which provides for such licensure.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. Should have been aware and</p> <p>16 were aware; is that your answer?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know how CVS became</p> <p>19 aware of this, the Controlled Substances</p> <p>20 Act?</p> <p>21 MR. DELINSKY: Object to</p> <p>22 form. Object to scope, on scope</p> <p>23 grounds as well.</p> <p>24 THE WITNESS: That's not</p>	<p style="text-align: right;">Page 81</p> <p>1 A. That's what I see here.</p> <p>2 Q. That would include the CVS</p> <p>3 distributors?</p> <p>4 A. CVS distributors were</p> <p>5 distributors of controlled substances in</p> <p>6 Schedules III, IV and V, that is correct.</p> <p>7 Q. Would the answer to my</p> <p>8 question be yes?</p> <p>9 MR. DELINSKY: Object to</p> <p>10 form.</p> <p>11 THE WITNESS: I think your</p> <p>12 question was, and the CVS</p> <p>13 distributors. I was providing an</p> <p>14 answer to your question.</p> <p>15 BY MR. KENNEDY:</p> <p>16 Q. This is a yes-or-no</p> <p>17 question, all right? I'm just going to</p> <p>18 give you a kind of heads up, it's a</p> <p>19 yes-or-no question, all right? So listen</p> <p>20 very carefully.</p> <p>21 Would E, what we just read,</p> <p>22 apply to CVS as a distributor of Schedule</p> <p>23 III opioids?</p> <p>24 MR. DELINSKY: Object to</p>

Page 82

1 form.
 2 THE WITNESS: And my
 3 response was that CVS distributors
 4 were distributors of Schedule III
 5 opioids.
 6 BY MR. KENNEDY:
 7 Q. So the answer -- let me ask
 8 you: Were you told to repeat my question
 9 in every answer so that this would take
 10 longer?
 11 MR. DELINSKY: Object to
 12 form. I instruct you not to
 13 answer that question.
 14 BY MR. KENNEDY:
 15 Q. I just asked a simple
 16 yes-or-no, question and you have to
 17 repeat my entire question in your answer.
 18 The time we are wasting isn't fair to
 19 anybody here.
 20 So if it's a yes-or-no
 21 question, then please answer yes or no.
 22 If you need to explain, then please go
 23 ahead and explain. All right?
 24 A. I didn't understand that to

Page 83

1 be a yes-or-no question.
 2 Q. Under E, it then states, The
 3 attorney general shall register an
 4 applicant to distribute controlled
 5 substances in Schedules III, IV or V,
 6 unless he determines that the issuance of
 7 such registration is inconsistent with
 8 the public interest. In determining the
 9 public interest, the following factors
 10 shall be considered. 1, maintenance of
 11 effective controls against diversion of
 12 particular controlled substances into
 13 other than legitimate medical, scientific
 14 and industrial channels.
 15 Did I read that correctly?
 16 A. I believe you did.
 17 Q. Did you understand and did
 18 CVS understand that to be what this act
 19 of Congress stated in 1971?
 20 MR. DELINSKY: Object to
 21 form. Object on scope grounds.
 22 THE WITNESS: I am not sure
 23 I understood the question.
 24 Could you repeat it?

Page 84

1 BY MR. KENNEDY:
 2 Q. Was CVS aware of that
 3 statement by Congress in this act as of
 4 2006?
 5 MR. DELINSKY: Object to
 6 form.
 7 THE WITNESS: I don't have
 8 corporate knowledge as to the
 9 extent of CVS's knowledge of that
 10 particular provision at that
 11 particular point in time.
 12 I can say that CVS was a
 13 registrant and would have applied
 14 and met the standard set forth
 15 here in order to receive a
 16 registration.
 17 BY MR. KENNEDY:
 18 Q. Fine. So can we agree that
 19 CVS certainly should have been aware of
 20 E(1) in 2006 as a registrant and as a
 21 distributor of controlled substances?
 22 MR. DELINSKY: Object to
 23 form.
 24 BY MR. KENNEDY:

Page 85

1 Q. True?
 2 A. CVS is aware of the
 3 Controlled Substances Act. This is a
 4 provision that refers to what the
 5 attorney general should do upon
 6 application for a registration by a
 7 potential registrant.
 8 And as I have said, CVS was
 9 a registrant in 2006.
 10 Q. Can we agree that CVS should
 11 have been aware of E(1) that we just read
 12 in relation to the maintenance of
 13 effective controls against diversion?
 14 CVS should have been aware of E(1) in
 15 this statute by the United States
 16 Congress in 2006? Should have been aware
 17 of it, correct?
 18 MR. DELINSKY: Object to
 19 form.
 20 THE WITNESS: Again, I don't
 21 have corporate knowledge as to the
 22 particular nature in which CVS was
 23 aware of this particular
 24 provision, which applies to the

Page 86

1 attorney general in acting upon
2 applications for registrations.
3 I do know that CVS would
4 have applied for a registration
5 and received one, presumably
6 consistent with the provision of
7 the Controlled Substances Act.
8 I'm aware of no information
9 suggesting that CVS was not aware
10 of the Controlled Substances Act
11 in general.
12 BY MR. KENNEDY:
13 Q. And I asked you whether they
14 should have been aware of it, not whether
15 they were or whether they were not. I
16 haven't asked you whether they agreed or
17 disagreed. I haven't asked you for any
18 legal interpretation.
19 I'm asking you, should CVS
20 have been aware of this statement by
21 Congress contained in E(1) that we have
22 read? Should they have been aware of
23 this in 2006? That's my question.
24 MR. DELINSKY: Object to

Page 87

1 form. Object on the grounds that
2 it's outside the scope of the
3 notices.
4 THE WITNESS: I really don't
5 know --
6 MR. DELINSKY: Object as
7 asked and answered.
8 THE WITNESS: I don't know
9 what you mean by "should." I'm
10 trying to answer the best way I
11 can, based on the factual
12 corporate knowledge that I have.
13 BY MR. KENNEDY:
14 Q. As someone or a registrant
15 that is attempting to maintain effective
16 controls against diversion, should they
17 have known of the existence of E(1), the
18 statement by the United States Congress
19 in 1971? Should they have known that?
20 MR. DELINSKY: Same
21 objections.
22 THE WITNESS: Sir, I think
23 that's the same question you've
24 now asked me several times. I can

Page 88

1 give you the same answer, which is
2 that this is a provision of the
3 Controlled Substances Act. I have
4 no reason to believe that CVS
5 wasn't aware of the Controlled
6 Substances Act.
7 This particular provision
8 appears to apply to the attorney
9 general.
10 MR. KENNEDY: I'm just going
11 to note in the record your refusal
12 to answer my question.
13 THE WITNESS: Sir, I don't
14 believe I'm refusing to answer
15 your question. I'm trying to
16 answer your question to the best
17 of my ability.
18 BY MR. KENNEDY:
19 Q. Do you know what the word
20 "should" means? I mean, you understand
21 my question. I mean, you're a lawyer.
22 You have taken depositions
23 in the past, have you not?
24 A. I have taken depositions.

Page 89

1 Q. How many?
2 A. A handful.
3 Q. And when I ask you, should
4 they have been aware of this provision
5 and this statute, do you not know what I
6 mean? Whether or not they should have
7 been aware of it as opposed to were they
8 aware of it. I'm asking you should they
9 have been.
10 MR. DELINSKY: Object to
11 form.
12 THE WITNESS: I really don't
13 understand your question as to
14 "should have been" with respect to
15 this particular provision.
16 Again, I have no reason to
17 believe that CVS, as a DEA
18 registrant, was not aware of the
19 Controlled Substances Act,
20 including this provision, as of
21 2006.
22 MR. DELINSKY: Let's take a
23 break. We've been on the record
24 for about 50 minutes.

Page 90

1 VIDEO TECHNICIAN: The time
2 is 10:26 a.m. We're going off the
3 record.
4 - - -
5 (Whereupon, a brief recess
6 was taken.)
7 - - -
8 VIDEO TECHNICIAN: The time
9 is 10:44 a.m. And we're back on
10 the record.
11 BY MR. KENNEDY:
12 Q. Sir, you understand when I
13 say "CVS," I mean the CVS defendants in
14 this case? You understand that?
15 A. Okay. I think you had
16 defined the CVS defendants earlier to me,
17 the two defendants in the case.
18 You're now saying you want
19 to further define the CVS defendants as
20 just CVS?
21 Q. Yes. When I ask you a
22 question, when I say "CVS," "CVS
23 defendants," I'm meaning the same thing.
24 Do you understand that?

Page 91

1 A. I'm not sure I have
2 understood that to this point.
3 When I might use the term
4 "CVS," I might speak to CVS more broadly
5 than just the CVS defendants.
6 Q. When I say "CVS," I mean the
7 defendants, unless I say otherwise, all
8 right?
9 A. I will try to keep that in
10 mind.
11 Q. CVS Pharmacy, Inc., have
12 they ever been a DEA registrant to
13 distribute controlled substances?
14 MR. DELINSKY: Object on
15 scope grounds. It's outside the
16 scope of the notice.
17 You may answer.
18 THE WITNESS: I don't
19 specifically recall whether any of
20 our distribution centers are owned
21 directly by CVS Pharmacy, Inc.
22 The two CVS defendants in
23 this case are not owned directly
24 by CVS Pharmacy, Inc. I do know

Page 92

1 that there are some stores in some
2 locations that are owned directly
3 by CVS Pharmacy, Inc., although
4 not in the jurisdictions where I
5 have prepared for this deposition.
6 MR. KENNEDY: All right. If
7 you read my question back, please.
8 - - -
9 (Whereupon, the court
10 reporter read the following part
11 of the record:
12 "Question: CVS Pharmacy,
13 Inc., have they ever been a DEA
14 registrant to distribute
15 controlled substances?")
16 - - -
17 MR. DELINSKY: Object to
18 form. Asked and answered. Object
19 as outside the scope.
20 BY MR. KENNEDY:
21 Q. Could you answer my
22 question, please?
23 A. I did answer your question
24 to the best of my ability.

Page 93

1 And based on the preparation
2 I've undertaken for this deposition, the
3 two CVS defendants in this case are not
4 owned directly by CVS Pharmacy, Inc.
5 The registrants on the DEA
6 licensure, to the best of my knowledge,
7 for the two distribution centers who are
8 the defendants in these cases, the two
9 entities that own the distribution
10 centers in these entities, are the
11 entities that own the distribution
12 centers.
13 I do not recall, because
14 it's beyond the scope of what I prepared
15 for -- testimony for today, whether any
16 other CVS distribution center is owned
17 directly by CVS Pharmacy, Inc. such that
18 CVS Pharmacy, Inc. would be the
19 registrant.
20 Q. Is the answer to my question
21 you do not know whether or not CVS
22 Pharmacy, Inc. has ever been a DEA
23 registrant to distribute controlled
24 substances? Is that the answer?

Page 94

1 MR. DELINSKY: Object to
2 form. Object as outside the
3 scope. Object as asked and
4 answered.
5 THE WITNESS: I did not
6 undertake preparation on that
7 point, consistent with the notice
8 and as I understand the topics.
9 So I do not have corporate
10 knowledge on that as we sit here
11 today.
12 BY MR. KENNEDY:
13 Q. In '06 and '07, did the CVS
14 distributors, or any CVS entity,
15 including CVS Pharmacy, Inc., have any
16 meetings with the DEA to talk about
17 controlled substance monitoring?
18 MR. DELINSKY: Object to
19 form. Object as outside the
20 scope, to the extent it's outside
21 the scope of the deposition
22 notice.
23 BY MR. KENNEDY:
24 Q. Do you know?

Page 95

1 A. Could you set forth the time
2 period again?
3 Q. In '06 or '07 or '08, did
4 the CVS defendants, or any CVS entity,
5 including CVS Pharmacy, Inc., have any
6 meetings with the DEA to talk about
7 suspicious order monitoring of controlled
8 substances?
9 MR. DELINSKY: Same
10 objections.
11 THE WITNESS: I do not have
12 corporate knowledge as to whether
13 or not the CVS defendants, as
14 you've used the term, or CVS
15 Pharmacy, Inc. had a meeting with,
16 for instance, DEA headquarters
17 concerning suspicious order
18 monitoring.
19 DEA does regularly inspect
20 and conduct audits of our
21 distribution facilities, and so
22 there may have been conversations
23 about suspicious order monitoring
24 in one of our facilities during

Page 96

1 one of those types of interactions
2 during that time period.
3 I just don't know for
4 certain as I sit here.
5 BY MR. KENNEDY:
6 Q. When, if ever -- well, when.
7 When did the CVS defendants, when did
8 they become aware of the Know Your
9 Customer requirement or program of the
10 DEA?
11 MR. DELINSKY: Object to
12 form.
13 THE WITNESS: I don't have
14 corporate knowledge as to when
15 exactly CVS would have acquired
16 knowledge of the DEA's Know Your
17 Customer language.
18 I do know that CVS received
19 at least some correspondence from
20 the DEA that, to the best of my
21 recollection, references that type
22 of language.
23 BY MR. KENNEDY:
24 Q. And when the DEA talks about

Page 97

1 Know Your Customer, did CVS understand
2 that to mean the customer being the CVS
3 pharmacies that you were distributing
4 hydrocodone drugs to?
5 MR. DELINSKY: Object to
6 form.
7 THE WITNESS: Yes. The only
8 customers that distribution
9 centers would have would be the
10 CVS stores.
11 BY MR. KENNEDY:
12 Q. And if there is evidence
13 throughout this case that in '07, '08 the
14 DEA communicated to distributors across
15 the country the Know Your Customer
16 program and requirement, do you have any
17 knowledge that would indicate that CVS
18 was unaware of the Know Your Customer
19 program by the DEA?
20 MR. DELINSKY: Object to
21 form.
22 THE WITNESS: I do not have
23 any specific corporate knowledge
24 that the company was unaware of

<p style="text-align: right;">Page 98</p> <p>1 that concept being communicated by</p> <p>2 the DEA.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. Are the CVS defendants or</p> <p>5 CVS Pharmacy, Inc. members of the HDMA?</p> <p>6 A. CVS is what's, I believe,</p> <p>7 called an affiliate member of HDA.</p> <p>8 Originally, Caremark, prior</p> <p>9 to the merger of CVS and Caremark, had a</p> <p>10 membership in HDA. It's my understanding</p> <p>11 that prior to that time, CVS did not have</p> <p>12 a membership in that organization and</p> <p>13 that CVS has remained a member of that</p> <p>14 organization only in an affiliate</p> <p>15 capacity, which means that CVS does not</p> <p>16 hold seats on boards or committee and is</p> <p>17 not generally consulted for policy and</p> <p>18 other types of communications.</p> <p>19 Q. Was any CVS entity</p> <p>20 affiliated in any ways with the HDMA in</p> <p>21 2008?</p> <p>22 A. 2008, to the best of my</p> <p>23 recollection, is the date when the</p> <p>24 CVS/Caremark merger took effect.</p>	<p style="text-align: right;">Page 100</p> <p>1 membership in HDA.</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. Did any of the CVS</p> <p>4 defendants ever receive a copy of the</p> <p>5 2008 HDA model controlled substance</p> <p>6 monitoring program?</p> <p>7 A. To the best of my corporate</p> <p>8 knowledge, no.</p> <p>9 Q. No.</p> <p>10 Did CVS pharmacy ever</p> <p>11 receive the 2008 model Controlled</p> <p>12 Substance Monitoring Act of the HDA?</p> <p>13 A. Again, to the best of my</p> <p>14 corporate knowledge at this point in</p> <p>15 time, no.</p> <p>16 MR. KENNEDY: Exhibit-3,</p> <p>17 please. We're going to look at</p> <p>18 Exhibit-3, the first of the DEA</p> <p>19 letters I think you referenced to.</p> <p>20 - - -</p> <p>21 (Whereupon, CVS-Vernazza</p> <p>22 Exhibit-3,</p> <p>23 CVS-MDLT1-000010552-555, was</p> <p>24 marked for identification.)</p>
<p style="text-align: right;">Page 99</p> <p>1 Q. In 2008, was any CVS entity</p> <p>2 affiliated with the HDMA; yes or no?</p> <p>3 MR. DELINSKY: Object to</p> <p>4 form.</p> <p>5 THE WITNESS: So as I --</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. I just want a yes-or-no</p> <p>8 question.</p> <p>9 A. Well, I don't --</p> <p>10 MR. DELINSKY: Object to</p> <p>11 form.</p> <p>12 THE WITNESS: I'm not sure</p> <p>13 of the specific point in 2008.</p> <p>14 As I testified, I believe</p> <p>15 that 2008 is the year of the</p> <p>16 CVS/Caremark merger. Prior to the</p> <p>17 CVS/Caremark merger, my</p> <p>18 understanding is that CVS was not</p> <p>19 a member, in any way, of HDA, but</p> <p>20 that Caremark was an affiliate</p> <p>21 member.</p> <p>22 Following the merger of</p> <p>23 those two entities, the new</p> <p>24 company maintained its affiliate</p>	<p style="text-align: right;">Page 101</p> <p>1 - - -</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. Do you know who Mr.</p> <p>4 Rannazzisi is?</p> <p>5 A. I do.</p> <p>6 Q. And who is he?</p> <p>7 A. Mr. Rannazzisi is a former</p> <p>8 official with the DEA with</p> <p>9 responsibilities for oversight over the</p> <p>10 DEA's diversion control organization.</p> <p>11 Q. If you'll take a look at</p> <p>12 Exhibit-3, that is a letter, is it not,</p> <p>13 from the United States Department of</p> <p>14 Justice, Drug Enforcement Administration,</p> <p>15 which is the DEA, correct?</p> <p>16 A. The Drug Enforcement</p> <p>17 Administration is what I would consider</p> <p>18 to be the DEA, yes.</p> <p>19 Q. September 27, 2006 is the</p> <p>20 date of this letter, true?</p> <p>21 A. The letter appears to be</p> <p>22 dated September 27, 2006.</p> <p>23 Q. CVS Indiana, LLC, one of the</p> <p>24 defendants in this case, it appears as if</p>

<p style="text-align: right;">Page 102</p> <p>1 they received this letter, true?</p> <p>2 A. To the best of our corporate</p> <p>3 knowledge, that is true.</p> <p>4 Q. And who was this letter</p> <p>5 shared with? Was this shared with CVS</p> <p>6 Pharmacy, Inc. at this point in time, in</p> <p>7 2006, around September?</p> <p>8 A. I do not have corporate</p> <p>9 knowledge as to who this particular</p> <p>10 letter may have been shared with at CVS</p> <p>11 Pharmacy, Inc., or if this letter was</p> <p>12 shared with anyone at CVS Pharmacy, Inc.</p> <p>13 Q. And you don't know whether</p> <p>14 it was shared with the other defendant,</p> <p>15 the other distributor defendant in this</p> <p>16 case, CVS RX Services?</p> <p>17 A. I, likewise, don't have</p> <p>18 corporate knowledge of that.</p> <p>19 MR. DELINSKY: Just so the</p> <p>20 record is clear, and Mr. Kennedy,</p> <p>21 I don't mean to take your time, so</p> <p>22 we can excise this 30 seconds, but</p> <p>23 the CVS RX Services, Inc. did not</p> <p>24 open its distribution center, I</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Look at the first sentence</p> <p>2 under background, if you would.</p> <p>3 And does it state, and this</p> <p>4 is the DEA to CVS Indiana, As each of you</p> <p>5 is undoubtedly aware, the abuse</p> <p>6 (nonmedical use) of controlled</p> <p>7 prescription drugs is a serious and</p> <p>8 growing health problem in this country.</p> <p>9 Do you see that statement?</p> <p>10 A. I do.</p> <p>11 Q. Was, I'm assuming, then, CVS</p> <p>12 Indiana, at this point in time, was aware</p> <p>13 of that statement in 2006, that statement</p> <p>14 by the DEA?</p> <p>15 A. To the best of my corporate</p> <p>16 knowledge, CVS received this letter --</p> <p>17 CVS Indiana received this letter and</p> <p>18 would have reviewed its contents,</p> <p>19 including that sentence.</p> <p>20 Q. Do you know whether CVS</p> <p>21 Indiana, or any other CVS entity,</p> <p>22 disagreed with that statement in 2006?</p> <p>23 MR. DELINSKY: Object to</p> <p>24 form. Object on scope grounds, to</p>
<p style="text-align: right;">Page 103</p> <p>1 may not have the date right, until</p> <p>2 2011 or 2012.</p> <p>3 MR. KENNEDY: Fine. Thank</p> <p>4 you.</p> <p>5 BY MR. KENNEDY:</p> <p>6 Q. The letter, Exhibit-3, from</p> <p>7 the DEA to one of the CVS defendants,</p> <p>8 let's look at the first sentence, if we</p> <p>9 could.</p> <p>10 It states, This letter is</p> <p>11 being sent to every commercial entity in</p> <p>12 the United States registered with the</p> <p>13 Drug Enforcement Administration (DEA) to</p> <p>14 distribute controlled substances.</p> <p>15 CVS Indiana, at that point</p> <p>16 in time, was a registrant, correct?</p> <p>17 A. To my understanding, that's</p> <p>18 correct.</p> <p>19 Q. And we don't know whether</p> <p>20 CVS Pharmacy, Inc. was a registrant to</p> <p>21 distribute at this time; would that be</p> <p>22 true?</p> <p>23 A. I don't have corporate</p> <p>24 knowledge of that.</p>	<p style="text-align: right;">Page 105</p> <p>1 the extent the question</p> <p>2 encompasses any other CVS entity.</p> <p>3 THE WITNESS: I have no</p> <p>4 knowledge that CVS disagreed with</p> <p>5 that.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. Look to the third paragraph</p> <p>8 over to the right, four lines down, that</p> <p>9 starts with, Distributors are.</p> <p>10 You can look at that whole</p> <p>11 sentence.</p> <p>12 The sentence states,</p> <p>13 Distributors are, of course, one of the</p> <p>14 key components of the distribution chain.</p> <p>15 Does CVS disagree with that</p> <p>16 statement, do you know, in 2006? And the</p> <p>17 CVS Indiana, I'm talking about.</p> <p>18 A. I have no corporate</p> <p>19 knowledge, at this point in time, that</p> <p>20 CVS disagreed with that statement.</p> <p>21 Q. The next sentence states, If</p> <p>22 the closed system is to function properly</p> <p>23 as Congress envisioned, distributors must</p> <p>24 be vigilant in deciding whether a</p>

<p style="text-align: right;">Page 106</p> <p>1 prospective customer can be trusted to 2 deliver controlled substances only for 3 lawful purposes. 4 CVS, any knowledge that they 5 disagreed with that statement in 2006? 6 MR. DELINSKY: Object to 7 form. Object on the grounds it's 8 outside the scope of the Special 9 Master Cohen's rulings on the 10 30(b)(6) topics. 11 BY MR. KENNEDY: 12 Q. Any evidence that they 13 disagreed with that, at that point in 14 time, in '06? 15 A. I have no corporate 16 knowledge as to whether or not CVS 17 disagreed with that statement in 2006. 18 Q. It next states, This 19 responsibility is critical. 20 Any information that CVS 21 Indiana disagreed with that statement in 22 2006? 23 MR. DELINSKY: Same 24 objections. Form and scope.</p>	<p style="text-align: right;">Page 108</p> <p>1 as CVS Indiana, LLC, and having reviewed 2 the letter, CVS would have understood 3 that statement to be a statement made by 4 the DEA. 5 Q. The next sentence starts 6 with, Nonetheless. 7 Nonetheless, given the 8 extent of prescription drug abuse in the 9 United States, along with the dangerous 10 and potentially lethal consequences of 11 such abuse, even just one distributor 12 that uses its DEA registration to 13 facilitate diversion can cause enormous 14 harm. 15 CVS Indiana would have been 16 aware of that statement by the DEA, 17 correct, because they received this 18 letter, and we assume they read it, true? 19 A. As I said, CVS Indiana did 20 receive this letter and, presumably, 21 would have reviewed it and been aware of 22 that statement by the DEA. 23 Q. Any knowledge that you have 24 in your preparation, any knowledge to</p>
<p style="text-align: right;">Page 107</p> <p>1 THE WITNESS: I have no 2 corporate knowledge, at this point 3 in time, as to whether or not CVS 4 agreed or disagreed with the 5 statement there. 6 BY MR. KENNEDY: 7 Q. If you go to the next page, 8 10553. The second paragraph, second 9 sentence that starts with, Moreover. 10 It states -- 11 A. I'm sorry, sir, which? 12 Q. Second page -- I'm sorry, 13 second page, second paragraph starting 14 with, Moreover. 15 It states, Moreover, all 16 registrants - manufacturers, 17 distributors, pharmacies and 18 practitioners - share responsibility for 19 maintaining appropriate safeguards 20 against diversion. 21 At this point in time, in 22 '06, did CVS understand that to be the 23 position of the DEA? 24 A. Having received this letter,</p>	<p style="text-align: right;">Page 109</p> <p>1 indicate that any CVS entity disagreed 2 with that statement in 2006? 3 A. I do not have any corporate 4 knowledge that CVS disagreed with that 5 statement. 6 Q. If you go down to the 7 paragraph two down that starts with, The 8 DEA regulations require. 9 This 2006 letter goes on to 10 state, The DEA regulations require all 11 distributors to report suspicious orders 12 of controlled substances. 13 Again, CVS Indiana would 14 have been aware of that statement and 15 position of a requirement by the DEA, 16 true? 17 A. CVS -- I have no corporate 18 knowledge that CVS would not have been 19 aware of this statement in this letter 20 that CVS Indiana received. 21 Q. All right. And this one is 22 important, this -- the DEA now quotes, in 23 this letter in '06, they quote from 24 federal regulations, do they not, in the</p>

<p style="text-align: right;">Page 110</p> <p>1 very next indented paragraph? Is that a 2 quote from a federal regulation? 3 A. I understand it to be so. 4 Q. And it states, The 5 registrant shall -- now you're a lawyer. 6 What does that word "shall" mean? 7 MR. DELINSKY: Object to 8 form, to the extent that's 9 calling -- and object to scope, to 10 the extent that's calling for a 11 legal interpretation, it's outside 12 the scope of Special Master 13 Cohen's ruling. 14 BY MR. KENNEDY: 15 Q. Shall is a mandate; that's a 16 serious word, is it not, in the English 17 language and under the law? Shall means 18 you've got to do it, right? 19 MR. DELINSKY: Same 20 objections. 21 THE WITNESS: I'm not here 22 to interpret what the words of the 23 regulation mean. 24 BY MR. KENNEDY:</p>	<p style="text-align: right;">Page 112</p> <p>1 form. Object on the ground that 2 this line of questioning violates 3 Special Master Cohen's ruling on 4 September 3rd regarding the scope 5 of these topics. 6 BY MR. KENNEDY: 7 Q. Am I right? 8 THE WITNESS: Could you read 9 the question? 10 BY MR. KENNEDY: 11 Q. When CVS put together its 12 monitoring policies and they received 13 this letter from the DEA quoting the 14 regulation with respect to monitoring 15 policies and they saw that the 16 government, the federal government in its 17 regulations, had used the word "shall" 18 with respect to their responsibility to 19 establish a system, they should have 20 understood the meaning of the word 21 "shall," correct? 22 MR. DELINSKY: Object to 23 form. Object on scope grounds. 24 Object to the extent --</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. You're here on behalf of the 2 CVS defendants in this case to talk about 3 what they did to monitor controlled 4 substances, correct? 5 A. I'm happy to talk about 6 that, sir. 7 Q. And wouldn't we agree that 8 they certainly would have had to read 9 this regulation and understand it, right? 10 Correct? 11 They would have to do that; 12 to put together a controlled substance 13 monitoring program, can we agree they 14 would have to have read, have to have 15 read, this regulation and understood what 16 it means, true? 17 A. I have no corporate 18 knowledge that CVS didn't read this 19 regulation. 20 Q. And when they read it and 21 saw the word "shall," they certainly 22 should have understood what that word 23 meant, right? 24 MR. DELINSKY: Object to</p>	<p style="text-align: right;">Page 113</p> <p>1 BY MR. KENNEDY: 2 Q. Isn't that true, sir? 3 MR. DELINSKY: Object to the 4 extent that this line of 5 questioning violates Special 6 Master Cohen's prior ruling on 7 these topics. 8 BY MR. KENNEDY: 9 Q. Isn't that true, they needed 10 to understand the word "shall" when 11 putting together their policies to 12 monitor the distribution of controlled 13 substances? 14 MR. DELINSKY: Same 15 objections. 16 THE WITNESS: My corporate 17 knowledge is that CVS, in putting 18 together its policies, was aware 19 of this regulation and all of the 20 words in the regulation. 21 BY MR. KENNEDY: 22 Q. Right. And they should have 23 understood that "shall" doesn't mean 24 maybe, maybe we need to do this, or we</p>

<p style="text-align: right;">Page 114</p> <p>1 don't have to do this necessarily; they 2 should have understood that "shall" means 3 you have to do it, correct? Shouldn't 4 they have understood that? 5 MR. DELINSKY: Object to 6 form. 7 BY MR. KENNEDY: 8 Q. And if you don't know, 9 that's fine. But -- 10 MR. DELINSKY: Mr. Kennedy, 11 please indulge me. Object to the 12 form of the question. I -- 13 Special Master Cohen specifically 14 ruled on these topics. And he 15 struck from them questions 16 regarding the interpretation of 17 any laws and limited to -- them to 18 questions about compliance with 19 the laws. 20 This line of questions is in 21 violation of Special Master's 22 rulings. And, again, if you want 23 to take a break and review the 24 ruling, I have copies here.</p>	<p style="text-align: right;">Page 116</p> <p>1 MR. DELINSKY: I think the 2 record will speak for itself on 3 the length and propriety of my 4 objections. 5 BY MR. KENNEDY: 6 Q. Let me ask you this: Let's 7 go on and read further and see what the 8 DEA was telling the CVS defendant from 9 Indiana here. 10 It next states, The 11 registrant shall -- shall inform the 12 field division of the Administration in 13 his area of suspicious orders when 14 discovered by the registrant -- and that 15 would be CVS Indiana, correct? 16 A. Yes. 17 Q. Suspicious orders -- this is 18 coming from the regulation, Suspicious 19 orders include orders of unusual size, 20 orders deviating substantially from a 21 normal pattern and orders of unusual 22 frequency. 23 CVS Indiana would have been 24 aware of that statement had they received</p>
<p style="text-align: right;">Page 115</p> <p>1 MR. KENNEDY: Let me ask 2 you, so we can -- your speaking 3 does not -- does not count on my 4 tape time; is that correct? 5 MR. DELINSKY: No, it 6 counts. 7 MR. KENNEDY: Then we've got 8 to do something. Because you're 9 taking up three-quarters of my 10 tape time. 11 MR. DELINSKY: You're asking 12 questions that violate Special 13 Master's ruling. 14 MR. KENNEDY: And you have 15 the right to object or instruct 16 not to answer, but not to talk for 17 three minutes every question. And 18 you should just do one of the two. 19 And I will give you a 20 continuing objection on form and 21 scope of the notice for every 22 question going forward so we don't 23 have to take the time to do that. 24 I'm willing to do that.</p>	<p style="text-align: right;">Page 117</p> <p>1 and read this letter, correct? 2 A. I believe that's correct. 3 Q. Is there any indication from 4 your study, from your four weeks of study 5 of this case, that CVS, or any of the CVS 6 entities, that being the other defendant 7 or CVS Pharmacy, Inc., disagreed with 8 that statement? 9 MR. DELINSKY: Object to 10 form. 11 THE WITNESS: I have no 12 corporate knowledge that CVS 13 disagreed with that statement. 14 BY MR. KENNEDY: 15 Q. The next statement by the 16 DEA in this letter starts with, It bears 17 emphasis. 18 The DEA next states, in 19 2006, It bears emphasis that the 20 foregoing reporting requirement is in 21 addition to, and not in lieu of, the 22 general requirement under 21 U.S.C. 823 23 (e) that a distributor maintain effective 24 controls against diversion.</p>

<p style="text-align: right;">Page 118</p> <p>1 CVS Indiana would have been 2 aware of that statement by the DEA, 3 correct? 4 A. I have no corporate 5 knowledge that CVS was not aware of that 6 statement. 7 Q. And you have no corporate 8 knowledge that they disagreed with that 9 statement, true? 10 A. I also have no corporate 11 knowledge that CVS has agreed with that 12 statement. 13 Q. The DEA next states, in 14 2006, Thus -- Thus, in addition to 15 reporting all suspicious orders, a 16 distributor has a statutory 17 responsibility to exercise due diligence 18 to avoid filling suspicious orders that 19 might be diverted into other than 20 legitimate medical, scientific and 21 industrial channels. Failure to exercise 22 such due diligence could, as 23 circumstances warrant, provide a 24 statutory basis for revocation or</p>	<p style="text-align: right;">Page 120</p> <p>1 Have you seen 46 before, 2 this e-mail attached to DEA letters? 3 A. I don't believe I have. 4 Q. This is an e-mail from Ron 5 Buzzeo. 6 Do you know who that is? 7 A. I do. 8 Q. And Mr. Buzzeo is involved 9 in an independent organization, 10 independent of CVS, an outside 11 third-party organization, correct? 12 A. Yes. Mr. Buzzeo was a 13 third-party consultant that was engaged 14 by CVS. 15 Q. Engaged by CVS to assist 16 them with respect to suspicious order 17 monitoring and anti-diversion programs, 18 true? 19 A. That is true. 20 Q. And he sends this e-mail to 21 Amy Lynn Brown. 22 And who is Amy Lynn Brown? 23 A. I'm uncertain as to who Amy 24 Lynn Brown is. I presume Amy Lynn Brown</p>
<p style="text-align: right;">Page 119</p> <p>1 suspension of a distributor's 2 registration. 3 Do you have any corporate 4 knowledge that would indicate that CVS, 5 any of the CVS entities, CVS Pharmacy, 6 Inc. or the two defendants, would 7 disagree with that statement by the DEA 8 in 2006? 9 MR. DELINSKY: Object to 10 form. 11 THE WITNESS: I do not have 12 any corporate knowledge that any 13 CVS entity would have disagreed 14 with that statement in 2006. 15 - - - 16 (Whereupon, CVS-Vernazza 17 Exhibit-46, 18 CVS-MDLT1-000091508-518, was 19 marked for identification.) 20 - - - 21 BY MR. KENNEDY: 22 Q. I'm showing you Exhibit-46, 23 which is the second DEA letter that the 24 DEA sent to all distributors.</p>	<p style="text-align: right;">Page 121</p> <p>1 is Amy Propatier, before a name change. 2 But I cannot say that I know that for 3 certain. 4 Q. All right. An employee, 5 nonetheless, of CVS Pharmacy, Inc., if it 6 indeed is Amy Propatier? 7 A. If it is Amy Propatier, Amy 8 Propatier has been an employee of CVS 9 Pharmacy, Inc. If Amy Lynn Brown is 10 somebody different, I don't know. 11 Q. All right. Amy Lynn Brown, 12 if it indeed is Amy Propatier, has never 13 been an employee of the CVS defendants in 14 this case, the distribution centers, 15 true? 16 A. To the best of my corporate 17 knowledge, that is true. 18 Q. The date of this e-mail is 19 important. 20 The date of this e-mail is 21 2/21/08, correct? 22 A. The e-mail reflects a date 23 of 2/21/08, I agree with that. 24 Q. And there's an attachment of</p>

<p style="text-align: right;">Page 122</p> <p>1 DEA letter, September 27, '06, and the 2 attachment of an additional DEA letter 3 from '07, true? 4 A. As I mentioned, I haven't 5 had a chance to review this document now. 6 I'll take a look at it. 7 Q. I'm just reading the 8 attachments. Under subject, I'm reading 9 the purported attachments, right? 10 A. Well, it looks like there 11 maybe are three attachments. I think you 12 referenced two. 13 Q. Let's go -- go to Page 14 91513. 15 We have already looked at 16 the 2006 letter from the DEA that was 17 received by Indiana -- CVS Indiana, 18 correct? We talked about -- 19 A. We have. I haven't had a 20 chance to review this document to 21 determine whether or not that letter is 22 also attached to this. 23 Q. I'm not asking you any 24 question about that.</p>	<p style="text-align: right;">Page 124</p> <p>1 reviewed the 2006 correspondence from the 2 DEA to Indiana, LLC, correct? 3 A. We've reviewed one letter. 4 Q. Correct. 5 A. You said 2006 6 correspondence. I just want to be a 7 little bit more precise, to make sure 8 we're talking about the same thing. 9 Q. DEA sent out a second 10 letter, in 2007, to all distributors, did 11 they not? 12 Sir? Sir, I'm not asking 13 you anything about the exhibit. 14 Did the DEA send out a 15 second letter to all distributors in 2007 16 again talking about suspicious order 17 monitoring? 18 MR. DELINSKY: Mr. Vernazza, 19 you may read the document if you 20 feel you need to, to answer the 21 question. 22 THE WITNESS: The letter 23 here in the exhibit that you've 24 put in front of me does not have</p>
<p style="text-align: right;">Page 123</p> <p>1 You and I have already 2 reviewed the 2006 DEA letter to CVS 3 Indiana, correct? 4 A. We have reviewed a September 5 27th, 2006 letter addressed to -- 6 Q. So my answer is yes? 7 A. -- CVS Indiana, LLC. 8 Q. So my answer is yes, 9 correct? 10 MR. DELINSKY: Object to 11 form. 12 BY MR. KENNEDY: 13 Q. My answer is yes, right? 14 A. I answered -- yes -- 15 Q. Yes. 16 A. -- we reviewed a letter 17 dated September 27th, 2006 to Indiana, 18 LLC. 19 Q. That was my question, right? 20 A. I don't think that was 21 exactly your question. 22 Q. Well, I want you to answer 23 my exact questions. 24 You and I have already</p>	<p style="text-align: right;">Page 125</p> <p>1 an addressee. 2 BY MR. KENNEDY: 3 Q. I'm not asking you about the 4 exhibit yet. I'm just asking you a 5 question. 6 Did -- do you have 7 knowledge, on behalf of the CVS 8 defendants, that the DEA indeed sent out 9 a second letter in 2007 to all 10 distributors again outlining their duties 11 and responsibilities under the 12 regulations and the Controlled Substances 13 Act? Are you aware of that? 14 A. And, sir, I was attempting 15 to answer your question before you cut 16 me -- 17 Q. Are you aware -- 18 A. -- off. If you could let me 19 answer the question, I'll let you know. 20 Q. Are you aware of that, that 21 the DEA sent out a letter to all 22 distributors in '07, similar to the 23 letter they sent out in '06? Are you 24 aware of that?</p>

Page 126

1 A. I have seen statements to
2 that effect.
3 Q. Okay.
4 A. We have not been able to
5 locate a copy of the 2007 letter.
6 Q. Sir, just answer my
7 questions. I'm going to get to that.
8 You are aware that they did
9 that, correct?
10 MR. DELINSKY: Object to
11 form.
12 THE WITNESS: No, I'm not
13 aware that they did that, because
14 I have been unable to find a copy
15 of that letter in our -- in our
16 files to validate that CVS
17 Indiana, LLC, received a copy of
18 the 2007 letter.
19 BY MR. KENNEDY:
20 Q. And I'm not asking you that,
21 all right?
22 A. Well, CVS Indiana, LLC --
23 Q. Right.
24 A. -- was a DEA registrant --

Page 127

1 Q. Right.
2 A. -- in 2007.
3 Q. Correct.
4 A. I have not located a copy of
5 that letter in our files as sent to CVS
6 Indiana, LLC, based on my investigation
7 to date. Therefore, I am unable to say,
8 to the best of my corporate knowledge,
9 with certainty, that CVS Indiana, LLC,
10 received the 2007 letter.
11 You asked me whether or not
12 DEA sent that letter to all registrants.
13 I do not have corporate knowledge as to
14 whether or not Indiana, LLC, received
15 that letter at this point in time.
16 Q. All right. If the DEA did
17 what they said they did, sent it out to
18 all registrants, then CVS Indiana, LLC
19 should have received a copy of the
20 February of '07 letter, correct?
21 MR. DELINSKY: Object to
22 form.
23 BY MR. KENNEDY:
24 Q. If the DEA did what they

Page 128

1 said they did, true?
2 MR. DELINSKY: Object to
3 form.
4 THE WITNESS: Are you
5 referring to a particular
6 statement by the DEA when you say
7 they said --
8 BY MR. KENNEDY:
9 Q. You can assume that the DEA
10 has stated that they sent a letter, dated
11 February 7th, 2007, to all registrants,
12 all distributors. Assume that to be
13 true.
14 If they did indeed do what
15 they say they did, then CVS Indiana
16 should have received a copy of the
17 February 7th letter, true?
18 MR. DELINSKY: Object to
19 form.
20 THE WITNESS: CVS Indiana
21 was a DEA registrant in 2007. If
22 every DEA registrant received a
23 copy of the letter, CVS Indiana,
24 as a registrant, would presumably

Page 129

1 have received a copy of that
2 letter.
3 We have been unable to
4 locate the 2007 letter in our
5 files.
6 BY MR. KENNEDY:
7 Q. And that certainly does not
8 mean you didn't receive it, correct, just
9 because you couldn't find it, true?
10 A. It does not necessarily mean
11 we didn't receive it. I agree with that.
12 Q. Look at Page 91513, if you
13 would. Exhibit-46.
14 This is the February 7th,
15 2007 letter from the DEA, true? True?
16 A. This is a letter dated
17 February 7th, 2007. It appears to be
18 redacted in some form, and I have not
19 reviewed this particular copy, which also
20 bears, maybe, some annotations.
21 Q. Sir, I asked you, is this
22 the February 7, 2007 letter from the DEA?
23 Is that what it appears to be? Simple
24 question.

<p style="text-align: right;">Page 130</p> <p>1 A. It appears to be a letter on 2 DEA letterhead, dated February 7, 2007. 3 Signed by Mr. Rannazzisi. 4 Q. And was this letter sent to 5 CVS on 2/21/08 by Mr. Buzzeo? 6 A. Again, assuming that Amy 7 Lynn Brown is an employee of CVS, the 8 answer to that would appear to be yes. 9 Q. Look at the Bates stamp down 10 at the bottom. 11 Does that say CVS? 12 A. It does. 13 Q. Do you understand this was 14 provided to us from the CVS files? 15 A. I presume that to be the 16 case. 17 Q. All right. So CVS received 18 this; we can agree with that, right? 19 A. To the best of my corporate 20 knowledge at this point in time, yes. 21 Q. This letter, again, 91513, 22 it starts off with, This letter is being 23 sent to every commercial entity in the 24 United States registered with the Drug</p>	<p style="text-align: right;">Page 132</p> <p>1 Indiana was registered with the DEA to 2 distribute controlled substances at the 3 time that this letter is dated. There is 4 a statement in this letter that it's 5 being sent to every such registrant. 6 Q. Go to the next page, if you 7 would, please. If you go one, two, 8 three, four paragraphs down, it starts 9 with, DEA regulations require. All 10 right? 11 It states, DEA regulations 12 require all distributors to report 13 suspicious orders of controlled 14 substances. 15 By '08, at the latest, from 16 this e-mail, CVS has this letter and that 17 statement by the DEA; true? 18 A. Yes. It appears that Mr. 19 Buzzeo would have provided a copy of this 20 letter in 2008. 21 Q. It goes down, and it 22 indicates, like the previous letter in 23 '06, it indicates in the quote, again the 24 quote from the federal regulation, The</p>
<p style="text-align: right;">Page 131</p> <p>1 Enforcement Administration (DEA) to 2 distribute controlled substances. 3 That's a statement by the 4 DEA that this was sent to all of the 5 registrants, which should have included 6 CVS Indiana, true? True? 7 A. CVS was -- Indiana was a 8 commercial entity in the United States 9 registered with the DEA to distribute 10 controlled substances. 11 Q. Is my answer yes? Is the 12 answer to my question is yes? 13 MR. DELINSKY: Object to 14 form. 15 BY MR. KENNEDY: 16 Q. You don't have to repeat -- 17 again, we have limited time. You don't 18 have to repeat my question in your 19 answer. 20 Is the answer to that 21 question yes? 22 A. I didn't repeat your 23 question in my answer. I gave an answer. 24 The answer is that CVS</p>	<p style="text-align: right;">Page 133</p> <p>1 registrant shall inform the field 2 division office of the Administration in 3 this area of suspicious orders when 4 discovered by the registrant. Suspicious 5 orders include orders of unusual size, 6 orders deviating substantially from a 7 normal pattern and orders of unusual 8 frequency. 9 At least at '08 at the 10 latest, you've received this second 11 statement from the DEA with respect to 12 what the DEA considers to be your 13 responsibility at CVS, true? 14 A. We would have received this 15 letter from Mr. Buzzeo. 16 Q. This letter goes on, and I'm 17 not going to go through each of the 18 statements, but at least by '08, CVS 19 Pharmacy, Inc. has received the second 20 DEA letter, true? 21 A. I think, again, presuming 22 that Amy Lynn Brown is an employee of CVS 23 Pharmacy, Inc., this e-mail suggests that 24 Mr. Buzzeo provided to Ms. Brown, in</p>

<p style="text-align: right;">Page 134</p> <p>1 2008, the copy of the letter that's 2 attached to this e-mail. 3 Q. At the very least, we've got 4 a CVS Bates number on this so this came 5 from CVS files, true? Despite who Amy 6 Lynn is, this came from CVS files, true? 7 A. CVS files, yes. But not 8 necessarily only CVS Pharmacy, Inc. 9 files. 10 My understanding from -- 11 Q. If you want to take a look 12 at Exhibit-4, please. 13 A. -- taking a look at 14 documents that have been -- 15 Q. Take a look at Exhibit-4, 16 please. 17 A. -- produced in this case 18 that have been taken from the files of 19 both CVS Indiana, CVS RX Services, Inc. 20 and CVS Pharmacy, Inc. 21 - - - 22 (Whereupon, CVS-Vernazza 23 Exhibit-4, 24 CVS-MDLT1-000013534-536, was</p>	<p style="text-align: right;">Page 136</p> <p>1 Pharmacy, Inc. in Rhode Island. 2 Q. And he's attaching a 3 December 27, 2007 letter from the DEA. 4 And I think this is the third letter that 5 the DEA sent to all distributors. 6 Am I right? Do you see the 7 attachment, which would be 13535? 8 A. I do see that attachment, 9 yes. 10 Q. Look at the first sentence 11 where it says, Dear Registrant. 12 It states, Dear Registrant, 13 This letter is being sent to every entity 14 in the United States registered with the 15 Drug Enforcement Administration (DEA) to 16 manufacture or distribute controlled 17 substances. 18 At that point in time, CVS 19 Indiana, LLC was registered to distribute 20 controlled substances, true? 21 A. I believe that is true. 22 Q. Have you reviewed this 23 letter before? 24 A. Perhaps some components of</p>
<p style="text-align: right;">Page 135</p> <p>1 marked for identification.) 2 - - - 3 BY MR. KENNEDY: 4 Q. I'll show you Exhibit-4, if 5 I could. 6 Do you have Exhibit-4? 7 A. Yes, sir. 8 Q. Exhibit-4 is an e-mail, is 9 it not, from Craig Schiavo; is that 10 correct? 11 A. I just need a minute to 12 review the document. 13 Q. I'm just asking you whether 14 it's an e-mail from Craig Schiavo. 15 Do you see up at the top 16 where it says, From? 17 A. I need to review the 18 document in order to answer that 19 question, sir. 20 Yes, sir, this does appear 21 to be an e-mail from Mr. Schiavo. 22 Q. And attached -- and Mr. 23 Schiavo, where does he work? 24 A. He works for, I believe, CVS</p>	<p style="text-align: right;">Page 137</p> <p>1 it. 2 Q. I'm not going to go through 3 all of this, but this was also attached 4 to 46, Exhibit-46, was the 2008 e-mail to 5 you -- or not to you, but to CVS, 6 correct? 7 So you would have received 8 this -- if the DEA is accurate in their 9 statement, CVS Indiana would have 10 received this in December of '07 and it 11 was also attached to the 2008 e-mail that 12 was sent to Amy Lynn in 2008? 13 A. I'm sorry, could you repeat 14 the question? 15 Q. If the first sentence is 16 true, that this was sent to all 17 registrants to distribute controlled 18 substances, then this letter would have 19 been received by CVS Indiana in 2007, 20 true? 21 A. Given that CVS Indiana was a 22 registrant, if the statement in the first 23 sentence is accurate, then, presumably, 24 CVS Indiana would have received the</p>

<p style="text-align: right;">Page 138</p> <p>1 letter.</p> <p>2 Q. And, again, have you</p> <p>3 reviewed this letter?</p> <p>4 A. My testimony was that I have</p> <p>5 reviewed, perhaps, certain components of</p> <p>6 this letter.</p> <p>7 Q. Let's look at the second</p> <p>8 paragraph. It starts with, In addition.</p> <p>9 It states, In addition to,</p> <p>10 and not in lieu of, the general</p> <p>11 requirement under 21 U.S.C. 823, that</p> <p>12 manufacturers and distributors maintain</p> <p>13 effective controls against diversion, DEA</p> <p>14 regulations require all manufacturers and</p> <p>15 distributors to report suspicious orders</p> <p>16 of controlled substances.</p> <p>17 From your knowledge of this</p> <p>18 case, at this point in time, did any CVS</p> <p>19 entity disagree with that position of the</p> <p>20 DEA?</p> <p>21 MR. DELINSKY: Object to</p> <p>22 form. Object to scope. Object to</p> <p>23 the extent it calls for a legal</p> <p>24 interpretation in violation of</p>	<p style="text-align: right;">Page 140</p> <p>1 system.</p> <p>2 Do you see that?</p> <p>3 A. I do see that.</p> <p>4 Q. Let me ask you this: The</p> <p>5 registrant is the CVS Indiana, correct?</p> <p>6 A. The -- yes, the registrant</p> <p>7 would be CVS Indiana with respect to the</p> <p>8 distribution activities at the CVS</p> <p>9 Indiana distribution center.</p> <p>10 Q. All right. Now, as we go</p> <p>11 forward today and talk about the design</p> <p>12 and operation of a system to disclose,</p> <p>13 can we agree that the design and the</p> <p>14 operation of the system to disclose</p> <p>15 suspicious orders was designed and</p> <p>16 operated by CVS Pharmacy, Inc. and not</p> <p>17 the registrant, as required?</p> <p>18 MR. DELINSKY: Object to</p> <p>19 form.</p> <p>20 THE WITNESS: Not at all</p> <p>21 times, no.</p> <p>22 BY MR. KENNEDY:</p> <p>23 Q. Well, I'm going to ask you</p> <p>24 about that.</p>
<p style="text-align: right;">Page 139</p> <p>1 Special Master Cohen's ruling.</p> <p>2 THE WITNESS: At this point</p> <p>3 in time, I do not have corporate</p> <p>4 knowledge that any CVS entity</p> <p>5 disagreed with that statement.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. It next states, Title 21 CFR</p> <p>8 1301.74(b) specifically requires that a</p> <p>9 registrant design and operate a system to</p> <p>10 disclose to the registrant suspicious</p> <p>11 orders of controlled substances.</p> <p>12 CVS would have been aware of</p> <p>13 that statement had they received this</p> <p>14 letter in '07, true?</p> <p>15 A. To the best of my corporate</p> <p>16 knowledge at this point in time, had CVS</p> <p>17 Indiana received this letter at that</p> <p>18 point in time, presumably, it would have</p> <p>19 been reviewed and CVS Indiana would have</p> <p>20 been aware of the statement.</p> <p>21 Q. And next it states, The</p> <p>22 regulation clearly indicates that it is</p> <p>23 the sole -- sole responsibility of the</p> <p>24 registrant to design and operate such a</p>	<p style="text-align: right;">Page 141</p> <p>1 As we move through today,</p> <p>2 I'm going to ask you who did what, where</p> <p>3 and when, as to whether or not it is the</p> <p>4 distribution center, the registrant being</p> <p>5 identified in this DEA letter, or whether</p> <p>6 or not it is CVS Pharmacy, Inc., all</p> <p>7 right?</p> <p>8 We're going to be very clear</p> <p>9 about that as we proceed, is that</p> <p>10 agreeable, that we can be clear about</p> <p>11 that?</p> <p>12 MR. DELINSKY: Object to</p> <p>13 form.</p> <p>14 BY MR. KENNEDY:</p> <p>15 Q. Agreeable?</p> <p>16 A. I'll respond to your</p> <p>17 questions the best I can, based on the</p> <p>18 question that's asked.</p> <p>19 Q. Let's move on.</p> <p>20 Generally, pharmacies have</p> <p>21 certain responsibilities with respect to</p> <p>22 filling prescriptions, certain</p> <p>23 requirements with respect to attempting</p> <p>24 to prevent diversion? Pharmacies have</p>

<p style="text-align: right;">Page 142</p> <p>1 those certain responsibilities; agreed?</p> <p>2 A. There are certain</p> <p>3 responsibilities, under the Controlled</p> <p>4 Substances Act, that are incumbent upon</p> <p>5 pharmacies and pharmacists with respect</p> <p>6 to the filling of controlled substances.</p> <p>7 Certainly, one of those is the pharmacy's</p> <p>8 duty to perform corresponding</p> <p>9 responsibility, or obligation under the</p> <p>10 law to perform corresponding</p> <p>11 responsibility, due diligence, before</p> <p>12 dispensing a prescription. That's</p> <p>13 certainly consistent with the prevention</p> <p>14 of diversion.</p> <p>15 Q. And can we agree that just</p> <p>16 because pharmacies have certain</p> <p>17 responsibilities under the law, that does</p> <p>18 not in any way abdicate or negate the</p> <p>19 responsibilities of a distributor with</p> <p>20 respect to suspicious order monitoring?</p> <p>21 Can we agree with that?</p> <p>22 MR. DELINSKY: Object to</p> <p>23 form. Object on scope grounds,</p> <p>24 including in light of Special</p>	<p style="text-align: right;">Page 144</p> <p>1 with both sets of obligations.</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. And one does not affect the</p> <p>4 other, correct?</p> <p>5 MR. DELINSKY: Object to</p> <p>6 form. Object on scope grounds.</p> <p>7 Object on the grounds of Special</p> <p>8 Master Cohen's ruling.</p> <p>9 THE WITNESS: No, I don't</p> <p>10 know that I would agree with that.</p> <p>11 A pharmacy places orders for</p> <p>12 controlled substances that are</p> <p>13 shipped. There can be any number</p> <p>14 of processes, procedures,</p> <p>15 safeguards in place at the</p> <p>16 pharmacy that would result in the</p> <p>17 pharmacy not placing orders that</p> <p>18 would be identified by a</p> <p>19 distributor as suspicious.</p> <p>20 BY MR. KENNEDY:</p> <p>21 Q. Let me ask you this -- I'm</p> <p>22 going to ask you again.</p> <p>23 Is it the position of the</p> <p>24 CVS defendants that because they had</p>
<p style="text-align: right;">Page 143</p> <p>1 Master Cohen's ruling on the</p> <p>2 interpretation of Controlled</p> <p>3 Substances Act and its</p> <p>4 regulations.</p> <p>5 THE WITNESS: Could you</p> <p>6 repeat the question?</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. Can we agree that just</p> <p>9 because the pharmacies have certain</p> <p>10 responsibilities that you just described,</p> <p>11 can we agree that just because those</p> <p>12 responsibilities exist on the part of a</p> <p>13 pharmacy, those do not in any way</p> <p>14 diminish or negate the responsibilities</p> <p>15 of the distributor with respect to</p> <p>16 monitoring suspicious orders?</p> <p>17 MR. DELINSKY: Same</p> <p>18 objections.</p> <p>19 THE WITNESS: The</p> <p>20 regulations in the Controlled</p> <p>21 Substances Act provide for</p> <p>22 different obligations on behalf of</p> <p>23 pharmacies and distributors.</p> <p>24 CVS undertakes to comply</p>	<p style="text-align: right;">Page 145</p> <p>1 pharmacy policies in place that their</p> <p>2 responsibility to monitor suspicious</p> <p>3 orders was less?</p> <p>4 A. No, that's not the question</p> <p>5 you asked me.</p> <p>6 MR. DELINSKY: Excuse me.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. That's the question I'm just</p> <p>9 asking. And if you'll answer the</p> <p>10 question I just asked, please.</p> <p>11 MR. DELINSKY: Object to</p> <p>12 form.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. Do you want her to read the</p> <p>15 question back?</p> <p>16 A. Sure. I think they are two</p> <p>17 different questions.</p> <p>18 Q. I want you just to answer</p> <p>19 the one I just asked.</p> <p>20 A. Okay. Well, it's a new</p> <p>21 question, so I'll respond to it.</p> <p>22 Q. We'll just do one at a time.</p> <p>23 If you would please just answer the most</p> <p>24 recent question, that would make things</p>

<p style="text-align: right;">Page 146</p> <p>1 easier.</p> <p>2 A. That would be great, if she</p> <p>3 can read it back.</p> <p>4 MR. KENNEDY: Would you read</p> <p>5 it back, please?</p> <p>6 - - -</p> <p>7 (Whereupon, the court</p> <p>8 reporter read the following part</p> <p>9 of the record:</p> <p>10 "Question: Let me ask you</p> <p>11 this -- I'm going to ask you</p> <p>12 again.</p> <p>13 "Is it the position of the</p> <p>14 CVS defendants that because they</p> <p>15 had pharmacy policies in place</p> <p>16 that their responsibility to</p> <p>17 monitor suspicious orders was</p> <p>18 less?")</p> <p>19 - - -</p> <p>20 THE WITNESS: There was no</p> <p>21 less an obligation to monitor</p> <p>22 suspicious orders.</p> <p>23 The question that you had</p> <p>24 asked before was whether or not</p>	<p style="text-align: right;">Page 148</p> <p>1 not mean that the regulation doesn't say</p> <p>2 what the regulation says or that the</p> <p>3 regulation doesn't apply to CVS</p> <p>4 distributors as a registrant.</p> <p>5 Q. The Know Your Customer</p> <p>6 obligation that you just talked about,</p> <p>7 that had been expressed by the DEA going</p> <p>8 back to 2007 and 2008, correct?</p> <p>9 MR. DELINSKY: Object to</p> <p>10 form.</p> <p>11 THE WITNESS: I would have</p> <p>12 to review a document to confirm</p> <p>13 that. But it sounds consistent</p> <p>14 with my understanding.</p> <p>15 BY MR. KENNEDY:</p> <p>16 Q. And would you agree that the</p> <p>17 responsibility that a distributor has</p> <p>18 under the Controlled Substances Act and</p> <p>19 the regulatory requirements cannot be</p> <p>20 abdicated or transferred to anyone else?</p> <p>21 Do you agree with that?</p> <p>22 A. There were certain services</p> <p>23 that could be performed on behalf of the</p> <p>24 registrant and that were performed on</p>
<p style="text-align: right;">Page 147</p> <p>1 there could be -- whether it was</p> <p>2 relevant.</p> <p>3 BY MR. KENNEDY:</p> <p>4 Q. I just want that question.</p> <p>5 So your answer is fine.</p> <p>6 The responsibility is not</p> <p>7 less, correct?</p> <p>8 A. It is relevant to the</p> <p>9 concept of knowing your customer. And in</p> <p>10 the case of CVS pharmacies, CVS</p> <p>11 pharmacies had in place policies and</p> <p>12 procedures requiring pharmacists to</p> <p>13 follow the law, including corresponding</p> <p>14 responsibility.</p> <p>15 There was also a system of</p> <p>16 field supervision of those pharmacies, a</p> <p>17 system of loss prevention, a supervision</p> <p>18 of those pharmacies, and other</p> <p>19 considerations that would be relevant to</p> <p>20 understanding who you were shipping your</p> <p>21 shipments to.</p> <p>22 So is it relevant to the</p> <p>23 obligation of suspicious order</p> <p>24 monitoring? We would say it is. It does</p>	<p style="text-align: right;">Page 149</p> <p>1 behalf of the registrant, for the</p> <p>2 registrant; so, for instance, to the</p> <p>3 extent that corporate logistics personnel</p> <p>4 are involved in operating a suspicious</p> <p>5 order monitoring system for the</p> <p>6 registrant.</p> <p>7 Q. Do you agree with that</p> <p>8 statement, the responsibilities that a</p> <p>9 distributor, a CVS distributor, has under</p> <p>10 the regulatory requirements cannot be</p> <p>11 abdicated or transferred to anyone else?</p> <p>12 Do you agree with that, sir; yes or no?</p> <p>13 MR. DELINSKY: Object to the</p> <p>14 form of the question. Object on</p> <p>15 the grounds that this question,</p> <p>16 again, is outside the scope of the</p> <p>17 deposition notice as ruled upon by</p> <p>18 Special Master.</p> <p>19 BY MR. KENNEDY:</p> <p>20 Q. Do you agree with that, sir?</p> <p>21 A. I think the regulation</p> <p>22 speaks for itself.</p> <p>23 MR. KENNEDY: Exhibit-65.</p> <p>24 - - -</p>

<p style="text-align: right;">Page 150</p> <p>1 (Whereupon, CVS-Vernazza 2 Exhibit-65, 3 CVS-MDLT1-000019722-786, was 4 marked for identification.) 5 - - - 6 BY MR. KENNEDY: 7 Q. Sir, you took four weeks to 8 prepare for this today, did you not? 9 A. I did. 10 Q. You talked to 40 different 11 people actually involved with this 12 program? 13 A. I think it's more than 40. 14 Q. Four weeks of time, several 15 hundred hours? 16 A. That's fair. 17 Q. Reviewed documents? 18 A. I have. 19 MR. DELINSKY: Let's take a 20 break, before we get to the 21 exhibit. I don't want you to show 22 us the exhibit. Let's take a 23 break. 24 MR. KENNEDY: What's that?</p>	<p style="text-align: right;">Page 152</p> <p>1 A. Allow me to just take a 2 minute to review. 3 Q. Sir, if you look at the top 4 of the first page -- 5 A. I apologize. I'm still 6 looking through the document. 7 Q. You don't know whether 8 you've seen this before? 9 A. I reviewed a great number of 10 documents in preparation for this 11 deposition. I'm attempting to review the 12 document in order to answer that 13 question. 14 Q. Maybe if you just -- if you 15 look at the title on the first page, that 16 would help you out. 17 A. Yes, I did. 18 Q. We can look at the title, 19 then, all the way at the top, this is the 20 CVS distribution center -- distribution 21 center controlled drug-DEA standard 22 operating procedures manual, true? 23 A. I'm sorry, I just want to 24 clarify my prior answer.</p>
<p style="text-align: right;">Page 151</p> <p>1 MR. DELINSKY: Let's take a 2 break. It's been about 55 3 minutes. 4 MR. KENNEDY: I'm in the 5 middle of showing him an exhibit. 6 MR. DELINSKY: I don't want 7 to see -- right. That's why -- 8 the exhibit has yet to be shown to 9 him, and that's why I propose we 10 take the break now. 11 VIDEO TECHNICIAN: The time 12 is 11:41 a.m. We are going off 13 the record. 14 - - - 15 (Whereupon, a brief recess 16 was taken.) 17 - - - 18 VIDEO TECHNICIAN: The time 19 is 11:59 a.m. And we're back on 20 the record. 21 BY MR. KENNEDY: 22 Q. Sir, we're showing you 23 Exhibit-65. 24 Have you seen this before?</p>	<p style="text-align: right;">Page 153</p> <p>1 To the extent that your 2 question was whether or not I reviewed 3 this, I did look at the front page when 4 you asked me to look at the front page. 5 I have not yet been able to 6 determine whether or not I reviewed this 7 document in preparation for the 8 deposition. 9 Q. The title of this document 10 is, CVS Distribution Center Controlled 11 Drug-DEA Standard Operating Procedures 12 Manual, correct? 13 A. I'm sorry, I was still 14 leafing through the back of the document. 15 I'm not done reviewing it. 16 But I can answer your 17 questions about the title. 18 Q. Right. That's the title of 19 this document, correct? 20 A. That is the title of the 21 document. 22 Q. And you're aware of DEA 23 standard operating procedures manuals at 24 CVS? There's a lot of them that I'm sure</p>

Page 154

1 you have reviewed in this case.
2 A. I have reviewed documents
3 consistent with that description.
4 Q. And if you go down -- this
5 was written either by or on behalf of the
6 CVS distributors, correct?
7 MR. DELINSKY: Object to
8 form.
9 BY MR. KENNEDY:
10 Q. Is that correct?
11 A. To the best of my corporate
12 knowledge, that's correct.
13 Q. Front page, if you look down
14 at paragraph, one, two, three, four,
15 five, it starts with, CVS is responsible.
16 Do you see that?
17 A. I do.
18 Q. And these are the words of
19 CVS; this is their standard operating
20 procedures, true? True?
21 MR. DELINSKY: Object to
22 form.
23 BY MR. KENNEDY:
24 Q. Sir, these are the words of

Page 155

1 CVS? This is their document?
2 A. I'm just trying to go back
3 to your prior instruction on how you were
4 terming CVS before --
5 Q. Right.
6 A. -- and whether or not you're
7 terming CVS to be only the CVS
8 distribution centers.
9 How are you using the term
10 here?
11 Q. Well, let me ask you this:
12 This is a document -- do you know who
13 made this document? That would be CVS
14 Pharmacy created it or paid to get this
15 document created; CVS Pharmacy, they
16 would have done this, right?
17 MR. DELINSKY: Object to
18 form.
19 BY MR. KENNEDY:
20 Q. Is that true?
21 A. To the best of my corporate
22 knowledge, this document would have been
23 put together by individuals working for
24 CVS Pharmacy in connection with the

Page 156

1 distribution center entities.
2 Q. All right. And if we go to
3 that fifth paragraph, does it state --
4 you had a little bit of a problem with
5 this concept before, but does it state --
6 CVS policies -- does it state, CVS is
7 responsible for ensuring compliance with
8 DEA regulatory requirements and that
9 responsibility cannot be abdicated or
10 transferred to anyone else?
11 Are those the words of CVS
12 Pharmacy, Inc.?
13 A. Those are the words that are
14 here in this document.
15 Q. On behalf of the CVS
16 defendants in this case, do you disagree
17 with those words? Do you disagree with
18 those words?
19 A. The words say what the words
20 say.
21 Q. All right. Let me ask you
22 this, just so we can get a good
23 understanding of what's going on, CVS
24 Pharmacy, Inc. is writing these standard

Page 157

1 operating procedures in relation to the
2 monitoring of the pharmacies that it
3 owns, right?
4 MR. DELINSKY: Object to
5 form.
6 BY MR. KENNEDY:
7 Q. That's really how things
8 happened at CVS? The company, the CVS
9 company that owned the pharmacies,
10 actually put together the policies and
11 procedures to monitor the pharmacies,
12 true?
13 A. I'm not sure I understood
14 the question. Could you repeat it?
15 Q. CVS Pharmacy, Inc., as you
16 just told us, is the one responsible for
17 putting these policies and procedures
18 together, true?
19 A. I said that CVS Pharmacy,
20 Inc. would have played a role in putting
21 these policies together, in connection
22 with the distribution centers as well.
23 Q. Right. And CVS Pharmacy,
24 Inc. is the one that owns the pharmacies

<p style="text-align: right;">Page 158</p> <p>1 that are being monitored pursuant to 2 these procedures, true? 3 A. Well, CVS Pharmacy, Inc. may 4 own subsidiaries that own pharmacies. 5 CVS Pharmacy, Inc. may also own 6 subsidiaries that operate distribution 7 centers. 8 In addition, I do know that 9 CVS Pharmacy, Inc. directly operates a 10 subset of pharmacies. 11 Q. So I'm going to go back. 12 Just listen to my question. 13 The way things are all set 14 up at CVS is CVS Pharmacy, Inc. is 15 putting together the policies and the 16 procedures, playing a role in the 17 policies and procedures, to monitor the 18 pharmacies when, in fact, they own, 19 directly or indirectly, the pharmacies, 20 correct? That's what happened? 21 A. Again, CVS Pharmacy 22 personnel would have put together, to the 23 best of my corporate knowledge, these 24 policies and procedures in connection</p>	<p style="text-align: right;">Page 160</p> <p>1 BY MR. KENNEDY: 2 Q. Very simple. Is that -- and 3 if it's false because I misstated 4 something, you can just say that's not 5 true. 6 A. I'd like to answer your 7 question with a little bit more precision 8 than you've asked it. 9 Which is that CVS Pharmacy, 10 Inc. has personnel that are responsible 11 for its logistics operations that are 12 employed by CVS Pharmacy, Inc. And they, 13 to the best of my corporate knowledge, 14 put together policies and procedures in 15 connection with folks that would be 16 working for the logistics operation. Or 17 the -- 18 Q. Who are all part of CVS 19 Pharmacy? 20 A. Excuse me. 21 With the distribution 22 centers, the individual entities and 23 people who worked in the distribution 24 centers.</p>
<p style="text-align: right;">Page 159</p> <p>1 with the distribution centers. 2 The folks that were tasked, 3 to the best of my corporate knowledge, 4 with putting together these policies were 5 folks who worked within the logistics 6 group or the part of CVS Pharmacy that 7 relates to its distribution operations. 8 CVS Pharmacy, as I have 9 testified, owns, directly or indirectly, 10 pharmacies. 11 Q. So the answer to my question 12 is yes? 13 A. The answer to your question 14 is the answer I gave. 15 Q. Okay. And so I'm going to 16 ask it again. 17 CVS Pharmacy, Inc. that put 18 together the policies and procedures to 19 monitor the pharmacy, owns, directly or 20 indirectly, the pharmacies that are being 21 monitored; true? 22 MR. DELINSKY: Objection. 23 Asked and answered. Object to 24 form.</p>	<p style="text-align: right;">Page 161</p> <p>1 CVS Pharmacy, Inc. owns, 2 directly or indirectly, pharmacies. 3 Q. That they are monitoring, 4 right? 5 A. CVS monitors its pharmacies 6 in a number of different capacities. 7 Q. Let's look at -- let's look 8 at what CVS -- the CVS defendants did and 9 CVS Pharmacy, Inc. did to fulfill their 10 duties with respect to the distribution 11 of hydrocodone drugs, all right? 12 January of '06. By January 13 of '06, the Controlled Substances Act has 14 been in place for over 30 years, true? 15 A. To the best of my 16 recollection, that's correct. 17 Q. And that -- again, we went 18 through their definition of how they 19 define the responsibilities of a 20 distributor, true? 21 A. We looked at the DEA 22 regulation regarding suspicious order 23 monitoring. 24 Q. And that regulation has been</p>

<p style="text-align: right;">Page 162</p> <p>1 in place for over 30 years by the time we 2 get to 2006, true?</p> <p>3 A. I believe that's correct.</p> <p>4 Q. With respect to CVS Indiana 5 in 2006, can you tell me what controls 6 against diversion of hydrocodone drugs 7 did they have in place? January of '06.</p> <p>8 A. So I think we're -- controls 9 against diversion? Or are you asking 10 about specifically the suspicious order 11 monitoring --</p> <p>12 Q. Suspicious order monitoring 13 would be a part of the control to prevent 14 diversion, would it not?</p> <p>15 A. Well, the suspicious order 16 monitoring regulation is separate from 17 the regulation or statute that talks 18 about effective controls against 19 diversion.</p> <p>20 But speaking with respect to 21 the regulation addressing suspicious 22 order monitoring, there are individuals 23 within the CVS Indiana warehouses who 24 are --</p>	<p style="text-align: right;">Page 164</p> <p>1 Q. I'm going to ask -- listen 2 to my question.</p> <p>3 I want to know what policies 4 and procedures did CVS Indiana have in 5 place and functioning to monitor 6 suspicious orders of controlled 7 substances that it was distributing in 8 January of '06.</p> <p>9 MR. DELINSKY: Object to 10 form.</p> <p>11 THE WITNESS: The -- just a 12 little bit of context here may be 13 helpful to your understanding.</p> <p>14 The CVS Indiana warehouse 15 facility is a large facility that 16 ships to CVS stores. It ships not 17 just drugs, but also front store 18 items, what we would call, 19 anything ranging from paper towels 20 to other things that you would see 21 in the front of the store.</p> <p>22 Within the warehouse, there 23 is a section dedicated to what we 24 would call pharmacy items. Within</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. We're talking about January 2 of '06, correct?</p> <p>3 A. Yes.</p> <p>4 Q. January of '06, tell me what 5 policies and procedures CVS Indiana had 6 in place to monitor suspicious orders of 7 hydrocodone drugs. Go ahead.</p> <p>8 MR. DELINSKY: I just want 9 the record to reflect you've 10 changed the question --</p> <p>11 MR. KENNEDY: I have changed 12 the question.</p> <p>13 MR. DELINSKY: -- from the 14 one that Mr. Vernazza was 15 answering before you interrupted 16 him.</p> <p>17 MR. KENNEDY: Correct.</p> <p>18 MR. DELINSKY: You're free 19 to continue answering the question 20 that had been put to you before 21 you were interrupted, if you wish, 22 or you can move to the new 23 question.</p> <p>24 BY MR. KENNEDY:</p>	<p style="text-align: right;">Page 165</p> <p>1 that section containing pharmacy 2 items, there is a subsection that 3 contains controlled substances.</p> <p>4 Those controlled substances 5 are put in what's called a cage, 6 with restricted access to only 7 certain individuals.</p> <p>8 When CVS Indiana would have 9 received an order for a controlled 10 substance, that controlled 11 substance order would have gone to 12 individuals who work within the 13 controlled substances cage. We 14 sometimes refer to them as the 15 pickers and the packers, because 16 they are the folks who actually 17 pick the drugs, place them in 18 secured totes and see to it that 19 those, then, are transferred for 20 loading on trucks.</p> <p>21 It has always been the 22 practice of the pickers and 23 packers, and it has always been 24 the understanding of the pickers</p>

<p style="text-align: right;">Page 166</p> <p>1 and packers, within that 2 controlled drug cage, to be aware 3 of unusual orders, and when they 4 were to identify an unusual order, 5 to escalate that for further 6 review. 7 The pickers and the packers 8 have experience picking those 9 controlled substances and have 10 experience picking controlled 11 substances for those stores. 12 BY MR. KENNEDY: 13 Q. Have you finished your 14 answer? 15 A. I believe so. 16 Q. That's what was in place in 17 January of '06? 18 A. There were also a number of 19 systems that would have complemented that 20 practice that were based in the field, 21 not the least of which is a set of field 22 supervisors over CVS Pharmacy stores. 23 Q. I'm not talking about -- 24 A. Not least of which is loss</p>	<p style="text-align: right;">Page 168</p> <p>1 was in place, to the best of my corporate 2 knowledge, in 2006. 3 Q. And tell me the data 4 information on the PDMR report. 5 A. It would include orders; to 6 the best of my recollection, it would 7 include both orders from warehouses and 8 outside vendors. It would include 9 information about a store's dispensing. 10 It may include information about 11 instances in which a store would have 12 manually adjusted the suggested order 13 through the AMES system. 14 And it may have included, 15 and I believe did include, information 16 where a store may have adjusted its 17 inventory level in the computer system to 18 reflect a different inventory level than 19 the computer system had on record. 20 Q. Was the PDMR report reviewed 21 prior to every single order being placed 22 for a hydrocodone drug in 2006? 23 A. It was not. 24 Q. Did the PDMR report provide</p>
<p style="text-align: right;">Page 167</p> <p>1 prevention personnel with specific duties 2 to investigate diversion. There were 3 hundreds of pharmacy supervisors, 4 approximately 150 loss prevention 5 personnel. 6 The loss prevention 7 organization also would run data analysis 8 that would look for certain indicators of 9 diversion with respect to store ordering 10 practices. For instance, the report 11 would look at what we would deem pharmacy 12 growth, which is a store that may be 13 ordering more controlled substances than 14 it was dispensing. And the report varied 15 over time in form and substance, but 16 would have included other potential 17 indicia of diversion that might prompt a 18 field loss prevention investigator to 19 conduct an investigation at the store 20 level. 21 Q. What was this report called? 22 A. It was called a PDMR report. 23 It may have changed names to some degrees 24 over the course of time. But that report</p>	<p style="text-align: right;">Page 169</p> <p>1 an evaluation of whether or not a 2 specific order for a CVS Pharmacy for a 3 hydrocodone product, whether or not that 4 was of unusual size for a specific order? 5 A. It could potentially. It 6 looked at orders in the aggregate to 7 determine whether or not that store, 8 among other things, was receiving more 9 than it was dispensing. 10 Q. Did it evaluate specific 11 orders for hydrocodone products in 2006 12 with respect to whether or not it was 13 unusual in size in relation to other 14 orders placed by that pharmacy? 15 MR. DELINSKY: Object to 16 form. Asked and answered. 17 THE WITNESS: I think, as I 18 said, it contained information 19 about orders that could be 20 evaluated by loss prevention 21 personnel to determine whether or 22 not there should be an 23 investigation undertaken with 24 respect to the orders that were</p>

<p style="text-align: right;">Page 170</p> <p>1 reflected on that report. 2 BY MR. KENNEDY: 3 Q. Did that report provide all 4 the information necessary for anyone to 5 look at that specific order and determine 6 whether or not it was unusual in its 7 size? 8 MR. DELINSKY: Object to 9 form. Asked and answered. 10 THE WITNESS: To the extent 11 that the report reflected orders 12 that were larger than dispensing, 13 in connection with other 14 attributes, that would be the 15 basis and the judgment of a loss 16 prevention personnel to 17 potentially conduct a further 18 investigation. 19 BY MR. KENNEDY: 20 Q. Are you talking about VIPER 21 reports? Is that what you're -- is that 22 was this PDMR is? 23 A. It would come out of the 24 VIPER system, that's correct.</p>	<p style="text-align: right;">Page 172</p> <p>1 unusual in size. Did it? 2 A. I don't believe I have 3 corporate knowledge that would answer 4 that specific question. 5 What I can say is there 6 could be instances, conceivably, on that 7 report where an order, one order, was 8 placed in a month and that pharmacy 9 dispensed less than the amount of the 10 order, so what was coming in was less 11 than what was going out and would prompt 12 an investigation by one of the -- by one 13 of the pharmacy loss prevention 14 personnel. 15 I can't say, I don't have 16 corporate knowledge that that couldn't 17 have happened. 18 Q. It's very clear. 19 Did that report contain an 20 analysis as to whether or not a specific 21 order was unusual in its size? 22 MR. DELINSKY: Object to 23 form. Asked and answered. 24 BY MR. KENNEDY:</p>
<p style="text-align: right;">Page 171</p> <p>1 Q. And you're representing to 2 us, under oath now, that that report 3 contains sufficient data for someone to 4 look at that report and determine whether 5 or not a specific order is unusual with 6 respect to size? Is that your testimony 7 under oath? 8 MR. DELINSKY: Object to 9 form. Object on the ground that 10 that misstates the testimony. 11 THE WITNESS: I don't think 12 that's what I've said. 13 BY MR. KENNEDY: 14 Q. All right. Fine. 15 Does that specific report, 16 in and of itself -- look, if anybody 17 investigates, they can figure out whether 18 something is unusual. 19 I want to know whether that 20 report does any kind of assessment or 21 analysis as to whether or not a specific 22 order for hydrocodone drugs, in January 23 of '06, gave a specific analysis as to 24 whether or not that specific order was</p>	<p style="text-align: right;">Page 173</p> <p>1 Q. Did it? 2 A. There is information on that 3 report that loss prevention personnel 4 could use to determine whether the orders 5 for that store were such that the loss 6 prevention department would undertake an 7 investigation with respect to that store. 8 Q. Right. But the report 9 itself did not analyze any specific order 10 to determine whether or not that order 11 was unusual in size, correct? 12 MR. DELINSKY: Object to 13 form. Object, asked and answered. 14 BY MR. KENNEDY: 15 Q. Correct? We've all looked 16 at the form. 17 A. The company did not consider 18 the results that populated on that report 19 to be, per se, unusual in size. It was a 20 tool that was available to loss 21 prevention personnel in determining 22 whether or not further investigation by 23 loss prevention personnel would be 24 appropriate.</p>

<p style="text-align: right;">Page 174</p> <p>1 Q. That report doesn't even 2 identify a specific single order, 3 correct? It doesn't even identify a 4 specific order? 5 A. I don't recall whether 6 specific orders are listed in the report 7 or whether it's an aggregate number at 8 this point in time. 9 Q. Well, if you're citing that 10 report as part of a suspicious order 11 monitoring program, isn't that something 12 you should know? 13 MR. DELINSKY: Object to 14 form. Object it misstates the 15 testimony. 16 BY MR. KENNEDY: 17 Q. Right? 18 A. I don't think I said that 19 that was our suspicious order monitoring 20 system. I said that it is a complement 21 to what was occurring in our distribution 22 centers. 23 And, indeed, the metrics 24 that -- some of the metrics that were</p>	<p style="text-align: right;">Page 176</p> <p>1 aggregate. 2 Q. Fine. And it does not 3 evaluate any specific order with respect 4 to unusual size; is that correct? 5 MR. DELINSKY: Object to 6 form. Asked and answered. 7 THE WITNESS: As I testified 8 a few moments ago, the -- CVS does 9 not take the position -- did not 10 take the position that an order 11 that populated on that report or 12 was reflected within that report 13 was, per se, suspicious. 14 BY MR. KENNEDY: 15 Q. I don't even know -- I don't 16 even -- did you hear my question? 17 I'm asking you, did that 18 report analyze any specific order with 19 respect to unusual size? 20 MR. DELINSKY: Object to 21 form. 22 BY MR. KENNEDY: 23 Q. Did it? 24 MR. DELINSKY: Asked and</p>
<p style="text-align: right;">Page 175</p> <p>1 looked at in that report are consistent 2 with some of the metrics that we look at 3 in our algorithms that we run today. 4 Q. Let's be real clear, then. 5 Maybe I misunderstood. 6 I thought this was a part of 7 the suspicious order monitoring, because 8 that was my question. 9 This PDMR report, number 10 one, it does not evaluate any specific 11 order, correct? 12 MR. DELINSKY: Object to 13 form. 14 BY MR. KENNEDY: 15 Q. Is that correct? 16 MR. DELINSKY: Excuse me. 17 Object to form. Misstates the 18 testimony. Object on that ground 19 as well. 20 BY MR. KENNEDY: 21 Q. No specific order is 22 identified? 23 A. To the best of my corporate 24 knowledge, it investigates orders in the</p>	<p style="text-align: right;">Page 177</p> <p>1 answered. 2 THE WITNESS: To the best of 3 my corporate recollection, it 4 looked at orders in the aggregate 5 and compared them to dispensing in 6 the aggregate to see if there was 7 a growth in inventory that wasn't 8 explained and should be -- and 9 should be investigated. 10 The company did not use the 11 terminology "suspicious order 12 monitoring" with respect to that 13 report. 14 BY MR. KENNEDY: 15 Q. I'm going to ask you again, 16 and I have to have answers to these 17 questions, period. 18 Did that report evaluate any 19 specific order as to whether or not it 20 was unusual in its size; yes or no? 21 MR. DELINSKY: Object to 22 form. 23 BY MR. KENNEDY: 24 Q. Did that report do that?</p>

Page 178

1 MR. DELINSKY: Object to
2 form. Object on the grounds that
3 this question has been asked and
4 answered.
5 MR. KENNEDY: He hasn't
6 answered. He's not even close to
7 answering the question.
8 BY MR. KENNEDY:
9 Q. Did that report do that
10 analysis of any specific order for
11 hydrocodone drugs?
12 A. I'm not sure I understand
13 your question. So I'm trying to answer
14 it to the best of my ability.
15 Q. The answer is no, isn't it?
16 The answer is simply no, that report
17 didn't do that?
18 MR. DELINSKY: Object to
19 form. Object, asked and answered.
20 THE WITNESS: The report
21 reflected orders in the aggregate
22 and compared those orders to
23 dispensing and looked to see if
24 there were increases in ordering

Page 179

1 over dispensing, coupled with
2 other indicia that may prompt loss
3 prevention personnel to undertake
4 an investigation.
5 That's what the report was
6 intended to do and how it was
7 used. It was an anti-diversion
8 tool used by the loss prevention
9 personnel.
10 BY MR. KENNEDY:
11 Q. And that's all that report
12 did, correct?
13 MR. DELINSKY: Object to
14 form.
15 BY MR. KENNEDY:
16 Q. That's all that report
17 did --
18 MR. DELINSKY: Object to the
19 form.
20 BY MR. KENNEDY:
21 Q. -- was compare distribution
22 and dispensing, correct? That's all it
23 did?
24 MR. DELINSKY: Object to

Page 180

1 form. Object on the grounds it
2 misstates the testimony.
3 THE WITNESS: No, I think it
4 did other things, because it gave
5 other information about some of
6 the ordering activity of the
7 pharmacy, such as adjustments in
8 the order that had been suggested
9 by the AMES system to make that
10 order a larger order, or instances
11 where the pharmacy had adjusted
12 the inventory level in the
13 computer system or the balance on
14 hand to a lower level.
15 These, in the experience of
16 the company, could be potential
17 indicators of diversion occurring
18 in the pharmacy and --
19 MR. KENNEDY: I'm going to
20 move to strike.
21 Listen to my question.
22 BY MR. KENNEDY:
23 Q. Did that form, the PDMR
24 report, provide an evaluation of a single

Page 181

1 order, any single order, of a hydrocodone
2 product with respect to whether or not it
3 was of unusual size? Did it? Did it
4 provide that evaluation?
5 MR. DELINSKY: Mr. Kennedy,
6 you are within your rights to move
7 to strike, but you're not within
8 your rights to interrupt the
9 witness.
10 So I'd ask that you let the
11 witness complete his answers
12 before you move to strike.
13 THE WITNESS: I was --
14 MR. KENNEDY: Go ahead.
15 MR. DELINSKY: I do object
16 to the form of the question. And
17 I object on the grounds the
18 question has been asked and
19 answered.
20 THE WITNESS: So I was
21 attempting to -- when you
22 interrupted me, I was attempting
23 to answer the question you asked
24 last, which was, is that -- is

Page 182

1 only the ordering and dispensing
2 reflected on a PDMR report.
3 And to my understanding,
4 there was more than that that was
5 reflected on the PDMR report. And
6 I was attempting to explain to you
7 what those were.
8 BY MR. KENNEDY:
9 Q. Let's look at Exhibit-93,
10 please.
11 - - -
12 (Whereupon, CVS-Vernazza
13 Exhibit-93,
14 CVS-MDLT1-000068377-381, was
15 marked for identification.)
16 - - -
17 BY MR. KENNEDY:
18 Q. Is this a PDMR report,
19 Exhibit-93?
20 A. I did not review this
21 document in preparation for this
22 deposition. But I do believe it to be a
23 PDMR report.
24 Q. Could you show the jury

Page 183

1 where on this report a specific order, a
2 specific order is evaluated as to whether
3 or not it is of unusual size? Show the
4 jury to that, please. Point that out,
5 point out the numbers for us.
6 MR. DELINSKY: I'm going to
7 object to form again. And I'm
8 going to further object on the
9 ground that this question has been
10 asked and answered on multiple
11 occasions.
12 And, Mr. Kennedy, I don't
13 know if there's two ships passing
14 in the night here, but Mr.
15 Vernazza has testified, on
16 multiple occasions already, that
17 this report addresses orders in
18 the aggregate. So he's already
19 answered that question.
20 BY MR. KENNEDY:
21 Q. Could you please show the
22 jury -- show the jury where on this
23 report that we've been talking about,
24 where on this report an individual order

Page 184

1 for any controlled substance is evaluated
2 as to whether or not it is of unusual
3 size. Show that to the jury, sir,
4 please.
5 MR. DELINSKY: Object to
6 form. Object, asked and answered.
7 THE WITNESS: So I see on
8 this report, and certainly this is
9 an example and not every PDMR
10 report, but I do see orders that
11 reflect what I would understand to
12 be aggregated orders over a period
13 of time.
14 I do not know whether there
15 was ever an instance where, on the
16 PDMR report, there was only one
17 shipment made during that period
18 of time.
19 The process that was in
20 place, as I understand it, would
21 have been for loss prevention
22 managers to review this report and
23 determine whether or not
24 additional follow-up was

Page 185

1 necessary. Among the tools that
2 would have been available to loss
3 prevention personnel in such a
4 circumstance would have been data
5 that reflected individual orders.
6 BY MR. KENNEDY:
7 Q. And, please, would you show
8 the jury where on here this report
9 reflects the individual evaluation of an
10 order as to whether or not it's of
11 unusual size? Could you show the jury
12 that, please, sir?
13 MR. DELINSKY: Object to
14 form. Object, asked and answered.
15 BY MR. KENNEDY:
16 Q. Are you able to do that? Is
17 that information on this form that we've
18 been talking about?
19 MR. DELINSKY: Object to
20 form. Object as asked and
21 answered.
22 BY MR. KENNEDY:
23 Q. Is it on this form anywhere,
24 sir?

<p style="text-align: right;">Page 186</p> <p>1 MR. DELINSKY: Same 2 objection. 3 THE WITNESS: There's a 4 column reflecting warehouse 5 shipments, and that could be 6 evaluated by loss prevention 7 personnel. 8 I don't have any knowledge 9 as to whether or not, in this 10 particular report, each entry is 11 reflective of multiple orders. 12 If multiple orders were 13 made, my understanding is that 14 those orders would be aggregated 15 in that number. But -- and so I 16 cannot say that a loss prevention 17 manager could not use this report 18 to look at the size of the orders. 19 But as I testified earlier, 20 the company did not term this 21 report to be one that was 22 primarily looking for suspicious 23 orders for the purposes of 24 reporting those orders to the DEA.</p>	<p style="text-align: right;">Page 188</p> <p>1 me. 2 A. I'm unable to say on this 3 document alone whether -- 4 Q. I'm just talking about this 5 document. I'm not talking about somebody 6 else's investigation later. 7 I'm talking about on this 8 document, which you cited, show me where 9 there is an evaluation of a specific 10 order for size. 11 A. The -- 12 Q. Point me to the number. 13 A. -- size of the warehouse 14 shipments is reflected there. 15 Q. Right. 16 A. I understand that to be an 17 aggregate number. 18 Q. Right. 19 A. I do not know, for each and 20 every instance, whether or not that 21 reflected one order or more than one 22 order. 23 My understanding is if more 24 than one order was made during the time</p>
<p style="text-align: right;">Page 187</p> <p>1 BY MR. KENNEDY: 2 Q. Is my answer you cannot find 3 anywhere on here where a specific single 4 order is evaluated for size? Is that 5 true, you cannot find that on this 6 report? 7 MR. DELINSKY: Object to 8 form. 9 BY MR. KENNEDY: 10 Q. That data is not here, true? 11 MR. DELINSKY: Object to 12 form. Object, asked and answered. 13 BY MR. KENNEDY: 14 Q. True? 15 A. I think that's the same 16 question you just asked me. I can give 17 you the same answer. 18 Q. Just point to me -- 19 A. Again -- 20 Q. -- a number or a column -- 21 A. -- which is that -- 22 Q. -- where there is an 23 evaluation of a single order for any 24 controlled substance for size. Just show</p>	<p style="text-align: right;">Page 189</p> <p>1 period of this report, that those orders 2 would be aggregated in that fashion. 3 Q. Show me the evaluation of 4 that number, that order, the amount; show 5 me the evaluation for size. 6 A. The evaluation of the size 7 of the orders would be made with respect 8 to the dispensing -- 9 Q. Right. 10 A. -- and adjustments and the 11 variance in the order -- the orders in 12 and the dispensing out. That's the 13 manner in which the report countenances 14 the size of the orders. 15 It would have then been used 16 by loss prevention personnel to conduct a 17 further investigation, if that was deemed 18 warranted at the time. 19 Q. Are you anywhere -- 20 A. This is within a field 21 process. 22 Q. Are you anywhere on 23 Exhibit-93, PDMMR report, able to show me 24 the evaluation of a single specific order</p>

Page 190

1 for size? Are you able to do that?
2 You're not?
3 A. Based on the information I
4 have in front of me, I'm not.
5 Q. Thank you.
6 This report, the PDMR
7 report, can you show the jury anywhere on
8 this report where the frequency of orders
9 for controlled substances is being
10 evaluated? Anywhere on this report, can
11 you show us that?
12 MR. DELINSKY: Object to
13 form.
14 THE WITNESS: Based on my
15 corporate knowledge at this point
16 in time, I cannot.
17 BY MR. KENNEDY:
18 Q. Can you show us anywhere on
19 this report, the PDMR, Exhibit-93, where
20 an evaluation is done of a specific order
21 as it relates to the pattern of ordering
22 of a controlled substance?
23 MR. DELINSKY: Object to
24 form.

Page 191

1 BY MR. KENNEDY:
2 Q. Anywhere on this report.
3 A. Among the things that we
4 consider in our analysis of pattern is
5 whether or not the particular store is
6 ordering in more than it's dispensing,
7 that remains part of the algorithms that
8 we run today.
9 That is reflected in this
10 report. It's, in fact, the point of this
11 report. So, to some degree, this report
12 could be used to look at pattern.
13 But, again, as I testified,
14 this report was not what we deemed a
15 suspicious order monitoring report. It's
16 relevant to orders and order size and,
17 some degree, order pattern.
18 But the point of this was
19 not to produce results for the purposes
20 of determining whether suspicious orders
21 were made and reporting those to the DEA.
22 Q. And this PDMR report is
23 printed every three months, true? This
24 is a three-month report? Do you know

Page 192

1 that?
2 A. I believe it's -- perhaps
3 comes out on different cadences over the
4 course of time. To the best of my
5 corporate knowledge, I understood it to
6 be a monthly report.
7 Q. So this isn't -- certainly
8 isn't looked at before any particular
9 order for a controlled substance is being
10 shipped out to one of your pharmacies,
11 true?
12 A. It is not.
13 Q. You talked about the pickers
14 and the packers.
15 Is it your testimony that
16 the pickers and the packers were
17 responsible for evaluating orders to
18 determine whether or not they are
19 suspicious?
20 A. The pickers and the packers
21 would be aware of, as part of their job
22 responsibilities, to raise any orders
23 that they considered to be irregular
24 based on their knowledge and experience,

Page 193

1 and to escalate those within the chain of
2 command within the warehouse and could
3 involve consultation with field
4 personnel. Most commonly, to my
5 corporate knowledge, that would be a
6 phone call to the pharmacy.
7 There were fairly -- there
8 were a number of instances where I
9 understand the pickers and the packers
10 would identify orders and initiate
11 contact, through supervisors, to the
12 store in order to determine whether that
13 order was one that the store made by
14 mistake, for instance.
15 Q. Tell me this: What
16 database, what information and knowledge
17 did a picker and a packer have in January
18 of '06 to determine whether or not a
19 specific order for a specific pharmacy
20 was of unusual size?
21 MR. DELINSKY: Object to
22 form.
23 THE WITNESS: Their
24 knowledge and experience of

<p style="text-align: right;">Page 194</p> <p>1 picking controlled orders, and 2 exclusively controlled orders, for 3 many years for, generally 4 speaking, the same subset of 5 stores. 6 They would then escalate 7 those orders for further review, 8 which would most often include a 9 phone call to the store. And I 10 can't tell you, you know, what 11 each of those conversations may 12 have included or what information 13 may have been provided by the 14 store. 15 BY MR. KENNEDY: 16 Q. The pickers and the packers, 17 how many orders would they fill a day in 18 January of '06? 19 A. I don't have corporate 20 knowledge of that number. 21 Q. Hundreds, right? Maybe 22 thousands a day? 23 A. I don't have corporate 24 knowledge of that number.</p>	<p style="text-align: right;">Page 196</p> <p>1 2006 time period, and they told me 2 that that was the case. 3 BY MR. KENNEDY: 4 Q. And did they tell you that 5 before they filled an order for CVS Main 6 Street in Akron, Ohio, they would have a 7 memory of the ordering pattern and 8 frequency and amount of that particular 9 pharmacy for the preceding 30 days or 60 10 or 90? 11 A. They did not tell me 12 specifically that. 13 Q. And let me ask you this: 14 The pickers and the packers and their 15 just -- their general experience, is that 16 what CVS had in place as its system to 17 disclose suspicious orders, based upon 18 size, frequency and pattern, in '06? 19 MR. DELINSKY: Object to 20 form. 21 THE WITNESS: To the best of 22 my corporate knowledge at this 23 point in time, yes. 24 BY MR. KENNEDY:</p>
<p style="text-align: right;">Page 195</p> <p>1 Q. Let me ask, you expect a 2 picker or packer -- did CVS expect a 3 picker and a packer to remember the 4 ordering quantities of a specific 5 pharmacy that they were shipping to? Did 6 they expect them to remember that from 7 their basic experience? 8 Did you expect them to 9 remember the ordering quantities of a 10 specific pharmacy before filling that 11 order? 12 MR. DELINSKY: Object to 13 form. 14 THE WITNESS: Based on my 15 corporate knowledge, pickers and 16 the packers had experience and 17 knowledge as to what would be a 18 typical order for controlled 19 substances, and were able to 20 identify orders that they found to 21 be out of the ordinary. 22 I actually had conversations 23 with pickers and packers who had 24 been in the warehouse during the</p>	<p style="text-align: right;">Page 197</p> <p>1 Q. And would I be correct to 2 say there were no written policies, 3 procedures and protocols for those 4 pickers and the packers in '06, with 5 respect to their obligations? Nothing in 6 writing? 7 A. In 2006, not in writing. We 8 later have reduced that process to 9 writing, as a part of a policy. 10 And, in fact, on the door to 11 the controlled substances cage today, and 12 I understand it's been there for some 13 period of time, is a poster that actually 14 reminds the pickers and the packers of 15 their obligations with respect to this. 16 Q. In 2006, did CVS rely upon 17 pickers and packers to have a memory of 18 the frequency of a particular pharmacy's 19 ordering of a controlled substance over 20 the preceding 30, 60, 90 days? 21 A. The pickers and the packers 22 who I spoke to told me that they were 23 able to identify orders that seemed out 24 of the ordinary, based on their</p>

<p style="text-align: right;">Page 198</p> <p>1 experience picking controlled substances 2 in the controlled substances cage. 3 Q. Can you describe to me the 4 training program that the pickers and the 5 packers went through to identify unusual 6 orders of size, frequency or pattern? 7 MR. DELINSKY: Object to 8 form. 9 THE WITNESS: Are you 10 speaking -- in which time period? 11 BY MR. KENNEDY: 12 Q. In '06. In '06. 13 A. To the best of my corporate 14 knowledge, there was no formal training 15 program. However, the pickers and the 16 packers who I spoke with who worked in 17 that environment in 2006 told me that 18 they were aware of that component of 19 their job responsibilities and had 20 acquired that knowledge in the course of 21 their employment. 22 Q. And what were the job 23 requirements to be a picker and a packer 24 at a CVS distribution center in 2006?</p>	<p style="text-align: right;">Page 200</p> <p>1 distribution center. 2 Q. Can you give me the names of 3 the pickers and the packers that you 4 spoke with that were either working -- 5 that were working in January '06, let's 6 start with that, because that's what 7 we've been talking about. 8 Tell me the names of the 9 packers and the pickers that you spoke 10 with who were employed by CVS in 2006, 11 January. 12 A. One's name was Allan Wilson. 13 Another's name was Sherri Hinkle. 14 Q. And they were employed in 15 January of '06? 16 A. Yes. That's my 17 understanding. In fact, my understanding 18 is they had been employed in the 19 warehouse for 20 years or more. 20 Q. Now, a CVS standard 21 operating procedure regarding controlled 22 drugs came into place on 12/1/07, 23 correct? 24 A. I'd have to see the document</p>
<p style="text-align: right;">Page 199</p> <p>1 A. I'm unaware of the formal 2 job requirements. I have been told that 3 the pickers and the packers in the 4 controlled substances cage were often 5 among the best and most valued employees 6 who performed those types of functions. 7 Q. From '06 to 2012, did a 8 picker and a packer ever identify an 9 order that was stopped and determined to 10 be suspicious and report it to the DEA, 11 ever? 12 A. To the best of my -- 13 MR. DELINSKY: Object to 14 form. Object to scope. It's 15 outside the scope of the 16 deposition notice and the Special 17 Master's rulings. 18 BY MR. KENNEDY: 19 Q. Ever? 20 A. To the best of my corporate 21 knowledge at this point in time, we do 22 not have record of any suspicious order 23 being identified or reported to the DEA 24 in 2006 from the Indianapolis</p>	<p style="text-align: right;">Page 201</p> <p>1 to validate that particular date. I am 2 aware that in 2007 there was a controlled 3 substances policy that was put into place 4 with respect to certain components of 5 distribution center operations. 6 Q. From January of '06 -- I 7 want to talk about from January of '06, 8 because we've talked about January, from 9 January of '06 until 12/1/07, when the 10 first operating policy manual comes into 11 play, can you describe for me what 12 suspicious order monitoring policies and 13 procedures were in place? 14 MR. DELINSKY: Object to 15 form. Object, asked and answered. 16 THE WITNESS: The practice 17 and procedure that I described to 18 you with respect to the controlled 19 substances cage, pickers and 20 packers, was in effect and 21 remained in effect. 22 There were a number of other 23 safeguards against diversion at 24 various places within the company.</p>

<p style="text-align: right;">Page 202</p> <p>1 But with respect to the 2 identification of suspicious 3 orders for reporting to the DEA, 4 to the best of my corporate 5 knowledge at this point in time, 6 that was the primary practice that 7 was in place. 8 BY MR. KENNEDY: 9 Q. Let me ask you this: From 10 January of '06 up to 12/1, December 1, of 11 '07, were any audits ever done of the 12 pickers and the packers to see how 13 effective they were in identifying orders 14 of unusual size, frequency or pattern? 15 Were any audits done -- 16 MR. DELINSKY: Object to 17 form. 18 BY MR. KENNEDY: 19 Q. -- to see how effective they 20 were? 21 MR. DELINSKY: Object to 22 form. 23 THE WITNESS: I'm aware of 24 various DEA inspections that</p>	<p style="text-align: right;">Page 204</p> <p>1 Let's do a little more than 15. 2 Let's do -- let's take 30 minutes. 3 MR. KENNEDY: Thirty, fine. 4 VIDEO TECHNICIAN: The time 5 is 12:51. Going off the record. 6 - - - 7 (Whereupon, a luncheon 8 recess was taken.) 9 - - - 10 VIDEO TECHNICIAN: The time 11 is 1:26 p.m. We're back on the 12 record. 13 BY MR. KENNEDY: 14 Q. All right, sir. I think 15 when we -- 16 VIDEO TECHNICIAN: Your 17 microphone, counsel. 18 MR. KENNEDY: Sorry about 19 that. That's common for me. 20 BY MR. KENNEDY: 21 Q. Sir, I think when we left 22 off, we had moved in time from January of 23 '06 up to December of '07. 24 In that regard, I've given</p>
<p style="text-align: right;">Page 203</p> <p>1 occurred at our facilities. 2 BY MR. KENNEDY: 3 Q. No. I'm asking you about 4 CVS audits, where they audited the 5 pickers and the packers to see how 6 effective they were in identifying orders 7 for controlled substances that were 8 unusual because of size, frequency or 9 pattern. 10 A. At this point in time, I 11 don't have corporate knowledge with 12 respect to an audit that had been done on 13 that specific point by CVS. 14 MR. KENNEDY: Do you want to 15 do lunch for 15 or just keep 16 going? 17 MR. DELINSKY: We can break 18 and do lunch. 19 MR. KENNEDY: I mean, I 20 don't -- doesn't matter to me, but 21 if we are going to break for 22 lunch, now is kind of a good time, 23 I suppose. 24 MR. DELINSKY: Let's do it.</p>	<p style="text-align: right;">Page 205</p> <p>1 you Exhibit-6, which -- 2 VIDEO TECHNICIAN: Hold on, 3 counsel, we have to go off the 4 record. 5 The time is 1:27 p.m. Going 6 off the record. 7 - - - 8 (Whereupon, a brief recess 9 was taken.) 10 - - - 11 VIDEO TECHNICIAN: The time 12 is 1:28 p.m. We're back on the 13 record. 14 BY MR. KENNEDY: 15 Q. All right, sir, I'm showing 16 you Exhibit-6. 17 - - - 18 (Whereupon, CVS-Vernazza 19 Exhibit-6, 20 CVS-MDLT1-000025204-259, was 21 marked for identification.) 22 - - - 23 BY MR. KENNEDY: 24 Q. Have you seen this before?</p>

Page 206

1 A. I reviewed a large number of
2 documents in preparation for this
3 deposition. I'm not certain this is
4 among them.
5 Q. All right. Let's look at
6 the first page of this.
7 This is an e-mail from Amy
8 Lynn Brown, true?
9 A. The e-mail at the bottom
10 appears to be an e-mail from Amy Lynn
11 Brown.
12 Q. Sent on November 27, 2007,
13 correct?
14 A. Again, this document seems
15 to reflect at least three e-mails. The
16 document -- the e-mail at the bottom
17 would be November 27th, 2007 from Amy
18 Lynn Brown.
19 Q. So my answer is yes, right,
20 that the date of the e-mail that we're
21 looking at is November 27, from Amy Lynn
22 Brown, true?
23 Nice and easy.
24 A. True, the e-mail at the

Page 207

1 bottom. There's multiple e-mails on this
2 document, and I don't believe you
3 specified it in your question.
4 Q. Well, it's -- never mind.
5 It's the only one from Amy
6 Lynn Brown? Is the subject --
7 A. I think there's two from Amy
8 Lynn Brown.
9 Q. Is the subject, New RX DEA
10 SOP?
11 A. The subject of the e-mail at
12 the bottom of the page is, New RX DEA
13 SOP.
14 Q. And all of these people that
15 this is being sent to, generally, do you
16 recognize who those people are?
17 A. I recognize some of them.
18 Q. And who are those folks
19 employed by?
20 A. With respect to some of the
21 names that I recognize, I believe those
22 names would be employed by CVS Pharmacy,
23 Inc.
24 With respect to some of the

Page 208

1 other names, I'm not certain. To the
2 best of my corporate knowledge, they
3 could have been employed by the entities
4 that owned individual distribution
5 centers.
6 Q. Now, on this date, November
7 27th, 2007, Amy Lynn Brown states, Good
8 afternoon. In late August, we met to
9 review a new SOP.
10 "SOP" we understand to mean
11 standard operating procedure, true?
12 A. I'm familiar with that
13 terminology being used that way, yes.
14 Q. And she says it's new, which
15 would imply it didn't exist before this
16 date, true?
17 MR. DELINSKY: Object to
18 form.
19 THE WITNESS: That this form
20 of the SOP didn't exist before
21 this date, is how I would
22 interpret that. But I don't know
23 exactly what Ms. Brown meant when
24 she authored this e-mail.

Page 209

1 BY MR. KENNEDY:
2 Q. Okay. In late August, we
3 met to review a new SOP in development
4 for the DEA and controlled drug process.
5 Did the DEA request that CVS
6 develop a standard operating procedure?
7 A. I don't have corporate
8 knowledge that they did.
9 Q. Next sentence, it states,
10 Not all the RX DCs -- and that would be
11 distribution center, true?
12 A. Again, that would be the way
13 I read this e-mail. But I don't know
14 specifically what Ms. Brown was
15 referencing there.
16 But, certainly DC is a
17 common way of expressing distribution
18 center within CVS.
19 Q. You don't have any
20 knowledge, or taking a position, that she
21 was suggesting anything other than
22 distribution center, do you?
23 A. No, no.
24 Q. All right. Not all RX DCs

Page 210

1 had a representative at the meeting, so I
2 am forwarding a copy for your review. We
3 are looking to implement this new SOP in
4 early December. The company that
5 authored the SOP is also going to provide
6 the training on the SOP.
7 Let me ask you this: Who was
8 the company authoring the SOP at this
9 point?
10 A. To the best of my corporate
11 knowledge, the Buzzeo Group was engaged
12 in a consulting capacity and assisted in
13 authoring this document that's attached
14 to the e-mail.
15 Q. And she says here that
16 they're going to provide training on this
17 suspicious order -- excuse me, this
18 standard operating procedure.
19 Do you see that? They're
20 going to provide training, right?
21 A. I see that referenced in the
22 e-mail.
23 Q. Does that imply to you that
24 the people that are receiving this, then,

Page 211

1 were unfamiliar with this standard
2 operating procedure, because they need to
3 be trained --
4 MR. DELINSKY: Object to
5 form.
6 BY MR. KENNEDY:
7 Q. -- correct?
8 MR. DELINSKY: Object to
9 form.
10 BY MR. KENNEDY:
11 Q. Do you agree with that?
12 A. I don't have corporate
13 knowledge that that's what that means.
14 Q. That's -- as you sit here
15 today, you don't interpret it that way,
16 that these folks need to be trained
17 because it's new?
18 MR. DELINSKY: Object to
19 form.
20 BY MR. KENNEDY:
21 Q. Do you agree with that?
22 A. I don't have corporate
23 knowledge that that's what she meant, or
24 whether or not individual personnel would

Page 212

1 have seen this before, or whether or not
2 they would have had an understanding as
3 to its content.
4 I'm unable to tell that just
5 from the e-mail alone.
6 Q. Let me -- forget your
7 corporate knowledge for just one second.
8 Just common sense would tell
9 you that if they refer to it as new and
10 they're talking about training, that
11 these folks probably are unfamiliar with
12 these standard operating procedures at
13 this point in time, true? Just common
14 sense.
15 MR. DELINSKY: Object to
16 form. A corporate knowledge
17 deposition, the witness is only
18 here to answer knowledge --
19 regarding his corporate knowledge.
20 MR. KENNEDY: And the law
21 says I can ask him questions
22 outside of those 30(b)(6)s. I'm
23 not limited to the 30(b)(6)
24 topics, under the law.

Page 213

1 BY MR. KENNEDY:
2 Q. Let's continue. We can --
3 MR. KENNEDY: We researched
4 it.
5 BY MR. KENNEDY:
6 Q. But go on.
7 The last statement there, it
8 says, Below is a list of dates for
9 training at your facilities.
10 Right? It says, again,
11 training to these employees, true?
12 A. I see the word "training."
13 Q. All right. Now, there's a
14 list of dates and facilities for
15 training.
16 And then it states, We are
17 still in the process of writing the
18 suspicious order monitoring section of
19 the standard operating procedures. We
20 will forward once it is complete.
21 On behalf of CVS, you agree
22 that, at this point in time, 12/27/07,
23 the suspicious order monitoring section
24 of CVS's standard operating procedures

<p style="text-align: right;">Page 214</p> <p>1 had not yet been written, correct?</p> <p>2 A. If you'll allow me just to</p> <p>3 review the document for a minute.</p> <p>4 Q. Well, I can direct your</p> <p>5 attention. If you want to go to Page</p> <p>6 25243.</p> <p>7 MR. DELINSKY: The witness</p> <p>8 is already there. He understands</p> <p>9 the document.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. Do you see Page 25243?</p> <p>12 A. Yes, I do.</p> <p>13 So there is a section here</p> <p>14 that addresses suspicious order</p> <p>15 monitoring.</p> <p>16 Q. Correct.</p> <p>17 A. My understanding is that</p> <p>18 that was essentially a draft or a</p> <p>19 placeholder for that section and was not</p> <p>20 the policy that was necessarily in place</p> <p>21 at that time.</p> <p>22 Q. Well, then, we'll go through</p> <p>23 this a little bit more carefully.</p> <p>24 Do you agree with her</p>	<p style="text-align: right;">Page 216</p> <p>1 Q. Right.</p> <p>2 A. Right. There's no</p> <p>3 indication of an attachment to the bottom</p> <p>4 e-mail. There's an indication of an</p> <p>5 attachment to the top e-mail.</p> <p>6 Q. Correct.</p> <p>7 A. The top e-mail was sent, it</p> <p>8 appears, in January of 2008.</p> <p>9 Q. All right.</p> <p>10 A. So I'm unable to tell from</p> <p>11 this document whether the attachment was</p> <p>12 attached to the bottom e-mail. I don't</p> <p>13 have any knowledge that it wasn't; I just</p> <p>14 can't tell from this document that it</p> <p>15 was.</p> <p>16 Q. I mean, in this e-mail, does</p> <p>17 she say, I am forwarding a copy for your</p> <p>18 review? Correct?</p> <p>19 A. She does say that. And that</p> <p>20 would certainly be consistent with her</p> <p>21 sending the document as an attachment.</p> <p>22 Again, I don't see an</p> <p>23 attachment listed. But, certainly, the</p> <p>24 content of her e-mail is consistent with</p>
<p style="text-align: right;">Page 215</p> <p>1 statement here, We are still in the</p> <p>2 process of writing the suspicious order</p> <p>3 monitoring section of this standard</p> <p>4 operating procedure?</p> <p>5 As of this date, do you</p> <p>6 agree that it was still being written, in</p> <p>7 November of 2007? Do you agree with that</p> <p>8 statement?</p> <p>9 A. To the best of my corporate</p> <p>10 knowledge, that is true.</p> <p>11 Q. Now, she attaches to this</p> <p>12 e-mail the standard operating procedures,</p> <p>13 correct, that she talks about in her</p> <p>14 e-mail that she is sending out to all</p> <p>15 these people, true? She attaches it?</p> <p>16 A. That's not evident to me</p> <p>17 from the face of this document.</p> <p>18 Q. Pardon me?</p> <p>19 A. That's not evident to me</p> <p>20 from the face of this document.</p> <p>21 Q. Well, her e-mail is Bates</p> <p>22 number 25204, correct?</p> <p>23 A. Sir, you're looking at three</p> <p>24 e-mails, as we discussed before.</p>	<p style="text-align: right;">Page 217</p> <p>1 the notion that she would have been</p> <p>2 forwarding that. Whether it was this</p> <p>3 version, I'm unable to say.</p> <p>4 Q. Well, let's look at the</p> <p>5 version that appears in consecutive</p> <p>6 numbering, 25206; am I right?</p> <p>7 A. Yes.</p> <p>8 Q. Her e-mail references</p> <p>9 standard operating procedures, and two</p> <p>10 e-mails -- or two pages later, we have</p> <p>11 standard operating procedures, correct?</p> <p>12 A. Yes. But the e-mail that</p> <p>13 was sent most recently in this string is</p> <p>14 the e-mail that appears to be sent from</p> <p>15 Todd Janson to John Mortelliti in January</p> <p>16 of 2008. That very clearly seems to</p> <p>17 attach CVS seventh draft, November 2007.</p> <p>18 And so that certainly</p> <p>19 appears to be the attachment to Mr.</p> <p>20 Janson's e-mail.</p> <p>21 Whether that was also the</p> <p>22 same attachment to Ms. Brown's e-mail, to</p> <p>23 the extent there was an attachment, I</p> <p>24 can't answer conclusively from the</p>

<p style="text-align: right;">Page 218</p> <p>1 document you put in front of me. 2 Q. 25206, titled, Distribution 3 Centers Controlled Drug-DEA Standard 4 Operating Procedures (SOPs) Manual, 5 correct? 6 A. CVS Distribution Centers 7 Controlled Drug-DEA Standard Operating 8 Procedures (SOPs) Manual, that's correct. 9 Q. And what we have in this 10 exhibit, are these the standard operating 11 procedures that were put into effect on 12 12/1/07 at CVS? 13 A. It is a set of standard 14 operating procedures that appear to have 15 been in effect in November 2007. 16 However, there are certain 17 components of the standard operating 18 procedures here that I know were still in 19 draft form or, essentially, a 20 placeholder. 21 Q. Let me ask you, go to Page 22 25242 of the standard operating 23 procedures. 24 Do you see the 25242? Do</p>	<p style="text-align: right;">Page 220</p> <p>1 right? 2 A. Yes. 3 Q. And the big bold letters, do 4 you see that? 5 A. I do. 6 Q. This is in the suspicious 7 order monitoring section. It says, SOP, 8 blank, order quantity parameters for 9 controlled drugs being developed and 10 written. 11 So the SOP, with respect to 12 the parameters section of the suspicious 13 order monitoring policy, have not yet 14 been written or developed; is that what 15 that says? 16 MR. DELINSKY: Object to 17 form. 18 THE WITNESS: No. I believe 19 it says what you read. I know, 20 from my preparation for this 21 deposition, that this Section D, 22 starting on page that ends 5242 23 and spanning to 25 -- excuse me, 24 5243, was in draft form, a</p>
<p style="text-align: right;">Page 219</p> <p>1 you see that on the bottom, Suspicious 2 order monitoring? Do you see that? 3 A. I do. 4 Q. And is this section, this 5 Section D, suspicious order monitoring, 6 is this what was put into place on 7 December 1, 2007 at CVS? 8 MR. DELINSKY: Object to 9 form. 10 THE WITNESS: As I 11 mentioned, and as Ms. Brown's 12 e-mail indicates, that section was 13 still being written and is in 14 draft form used as a placeholder 15 in this policy. 16 And no, to the best of my 17 corporate knowledge, what's 18 reflected in that section was not 19 implemented at that time. 20 BY MR. KENNEDY: 21 Q. All right. So what we are 22 looking at, under the suspicious order 23 monitoring program in Exhibit-6, right, 24 if we look to the next page, 25243,</p>	<p style="text-align: right;">Page 221</p> <p>1 placeholder, and not the policy 2 that was put into place at this 3 time. 4 BY MR. KENNEDY: 5 Q. All right. So what we're 6 seeing in Exhibit-6 is not the suspicious 7 order monitoring policy that was put into 8 effect on 12/1/07; is that what you're 9 saying? 10 A. What I'm saying is I don't 11 believe that there was a suspicious order 12 monitoring policy put into place as of 13 that date. 14 Q. Okay. 15 A. Other than what's reflected 16 here, which is consistent with some of 17 the principles that we discussed -- 18 Q. But it's not in place -- 19 A. -- earlier. 20 Q. -- and in effect and up and 21 running? 22 A. What's described here is 23 what was written, to the best of my 24 corporate knowledge, by the Buzzeo Group,</p>

<p style="text-align: right;">Page 222</p> <p>1 but not yet describing a system that had 2 been implemented in a centralized, 3 computer-based fashion at CVS. And that 4 was understood. 5 Q. All right. Exhibit-14, 6 please. 7 - - - 8 (Whereupon, CVS-Vernazza 9 Exhibit-14, CVS-MDLT1-000034374, 10 with attachment, was marked for 11 identification.) 12 - - - 13 BY MR. KENNEDY: 14 Q. We were just talking about 15 December of '07. So I want to move 16 forward now to September of '08, so ten 17 months or so later. 18 This is an e-mail, that 19 being Exhibit-14, from Richard Sanitate, 20 correct? 21 A. September 18th of 2008 from 22 Richard Sanitate, yes. 23 Q. And who is he employed by? 24 A. I don't know Mr. Sanitate,</p>	<p style="text-align: right;">Page 224</p> <p>1 We've been talking about 2 operating procedures, true? Is that what 3 the attachment says? Is that what it 4 says? 5 A. CVS standard operating 6 procedures. 7 Q. Is that the attachment? If 8 you look at the first page, does the 9 attachment say, DEA-CVS operating 10 procedures.ppt, probably PowerPoint? 11 A. Yes. 12 MR. DELINSKY: Excuse me, 13 could you please put it up on the 14 screen? It's hard to read. 15 There's parts of this I can't read 16 on the document, just due to the 17 size. 18 Can you please put up 34375 19 on the screen? That's all. 20 Right now it's only the 21 cover e-mail. 22 THE WITNESS: That's what I 23 understood your question to be 24 asking me about the cover e-mail.</p>
<p style="text-align: right;">Page 223</p> <p>1 and he's not somebody who I spoke with in 2 preparation for this deposition. 3 So, unfortunately, I 4 don't -- 5 Q. He is writing -- 6 A. -- have corporate knowledge 7 on that. 8 Q. -- an e-mail, though, to 9 various folks that are involved with the 10 suspicious order monitoring procedures 11 protocols, correct? 12 A. Could you repeat the 13 question? 14 Q. The e-mail is being sent to 15 Byers, Bachofen, Wagner -- and these 16 would be people that are involved with 17 the monitoring of orders, correct, the 18 policies, the development of policies? 19 A. I don't know that each of 20 the individuals listed in the "to" line 21 there would have been involved in 22 suspicious order monitoring. 23 Q. And the attachment says, 24 DEA-CVS operating procedures.</p>	<p style="text-align: right;">Page 225</p> <p>1 BY MR. KENNEDY: 2 Q. No, no. I'm asking about 3 the e-mail now. Why are we at the 4 PowerPoint? 5 MR. DELINSKY: I'm sorry. 6 My bad. 7 BY MR. KENNEDY: 8 Q. The attachment, does the 9 attachment to this 9/18/08 e-mail say, 10 DEA-CVS operating procedures.ppt -- 11 probably standing for PowerPoint. Is 12 that the attachment on the e-mail? 13 A. That is not what the 14 attachment says is the title, no. 15 MR. DELINSKY: Okay. I 16 think we're talking to two 17 different things. Mr. Vernazza is 18 looking at what appears to be the 19 actual attachment. You're looking 20 to the attachment line. 21 That's the source of the 22 confusion. 23 BY MR. KENNEDY: 24 Q. Please listen to my</p>

<p style="text-align: right;">Page 226</p> <p>1 question. I'm just on Page 1. 2 A. I think you said is the 3 attachment titled that. 4 MR. DELINSKY: Go back. I 5 think this is an innocent 6 confusion. 7 MR. KENNEDY: It clearly is. 8 I'll go back and clear it up. 9 BY MR. KENNEDY: 10 Q. Just look at the e-mail on 11 the first page? That's all. The e-mail 12 on the first page. 13 A. The attachment to the e-mail 14 on the first -- at the top level is 15 indicated as DEA-CVS operating 16 procedures.ppt. 17 Q. Correct. 18 A. Totally agree. 19 Q. Now, let's look at the 20 attachment, okay? 21 And, again, we are in 22 September of '08, correct? And the 23 attachment is the PowerPoint. 24 And it says, CVS standard</p>	<p style="text-align: right;">Page 228</p> <p>1 being drafted, and we are in September of 2 '08, correct? 3 A. To the best of my corporate 4 knowledge, that's true. 5 Q. So let's look at the 6 PowerPoint. If you'd go to Page 380. 7 MR. DELINSKY: If you feel 8 as though you need to read the 9 document, take your time. 10 THE WITNESS: Unfortunately, 11 I do think it is a document I'm 12 going to have to take a few 13 minutes to review, Mr. Kennedy. 14 BY MR. KENNEDY: 15 Q. Are you on Page 380? 16 A. No, not yet. I need to 17 review a little bit more of the document. 18 Q. 380, that's -- we don't -- 19 no need to talk about their security and 20 driving trucks. 21 I wanted to go to the 22 standard operating procedure portion on 23 380. 24 A. I just see other pages that</p>
<p style="text-align: right;">Page 227</p> <p>1 operating procedures, correct? 2 A. I do see that, yes. 3 Q. If we go further -- at this 4 point in time, is the suspicious order 5 monitoring section of the standard 6 operating procedures complete and up and 7 running and in place? This is now 8 September of '08. 9 A. This is not a document that 10 I reviewed in preparation for this 11 deposition. The standard operating 12 procedures document that we were looking 13 at earlier that was the placeholder -- 14 Q. Right. 15 A. -- remained in effect for 16 some period of time. I believe through 17 this period of time. 18 Q. All right. 19 A. And remained in draft 20 placeholder form -- 21 Q. So the standard -- 22 A. -- through this time. 23 Q. -- operating procedures for 24 the suspicious order monitoring are still</p>	<p style="text-align: right;">Page 229</p> <p>1 seem to define terms that are being used, 2 so in order to -- 3 Q. If we come across something 4 you don't understand, you want to go 5 back, I've got no problem. But these are 6 pretty straightforward questions. 7 MR. DELINSKY: Let's just 8 give the witness a minute. 9 BY MR. KENNEDY: 10 Q. Let's move on. We're going 11 to move to another exhibit. 12 MR. KENNEDY: If you'd give 13 me Exhibit-7, if we could. 14 - - - 15 (Whereupon, CVS-Vernazza 16 Exhibit-7, 17 CVS-MDLT1-000034234-300, was 18 marked for identification.) 19 - - - 20 BY MR. KENNEDY: 21 Q. We were just looking, we 22 were in September of '08, and the 23 drafting of the suspicious order 24 monitoring is still proceeding, correct?</p>

Page 230

1 MR. DELINSKY: Exhibit-7.
2 THE WITNESS: Yes, it was
3 still in draft form, to the best
4 of my corporate knowledge, at that
5 time.
6 BY MR. KENNEDY:
7 Q. Let's move forward now.
8 That was September of '08.
9 Let's move forward now to
10 April 3 of '09. And that would be
11 Exhibit-7. All right.
12 I'm looking at the bottom
13 e-mail from Amy Propatier.
14 She's employed at CVS
15 Pharmacy, Inc., correct?
16 A. To the best of my knowledge,
17 that's true, yes.
18 Q. And she would have been
19 involved with establishing the suspicious
20 order monitoring policy and that section
21 of the standard operating procedures,
22 true?
23 MR. DELINSKY: Object to
24 form.

Page 231

1 THE WITNESS: To the best of
2 my knowledge, Mrs. Propatier was
3 involved in the standard operating
4 procedures.
5 BY MR. KENNEDY:
6 Q. She sends this e-mail to a
7 large group of people.
8 Do you recognize all those
9 people?
10 A. Not all of them, no. Some
11 of them.
12 Q. That's a large group of
13 people, and so most of those people that
14 you recognize would be employed at CVS
15 Pharmacy, Inc., correct?
16 A. No, that's -- that's not
17 correct. I don't know all the
18 individuals who she's sending this to.
19 I understand at least one of
20 them to be employed by CVS Indiana, LLC.
21 Q. So this is people involved,
22 though, with respect to standard
23 operating procedures, people that would
24 be involved with suspicious order

Page 232

1 monitoring procedures, true?
2 MR. DELINSKY: Object to
3 form.
4 THE WITNESS: I don't know
5 that to be true, no.
6 BY MR. KENNEDY:
7 Q. But this would be people
8 both at the distribution centers and at
9 CVS Pharmacy, Incorporated, true? It
10 looks that way.
11 A. I see at least one
12 individual who I understand to have been
13 employed by CVS Pharmacy, Inc. I see at
14 least one individual who would have been
15 employed by CVS Indiana, LLC.
16 Q. All right.
17 A. I do not know all of these
18 people to have been involved in
19 suspicious order monitoring.
20 Q. A large group of people on
21 the e-mail, true?
22 A. It depends on how you would
23 judge "large." We could count them, if
24 you would like.

Page 233

1 Q. The subject of this is,
2 Updated DEA SOP, correct? Is that the
3 subject?
4 A. That is the subject of Ms.
5 Propatier's e-mail at the bottom of this
6 exchange.
7 Q. So is the answer yes?
8 MR. DELINSKY: Object to
9 form.
10 BY MR. KENNEDY:
11 Q. Just a real simple -- let's
12 try this.
13 Is the subject, Updated DEA
14 SOP?
15 MR. DELINSKY: Object to
16 form.
17 BY MR. KENNEDY:
18 Q. Can you answer that yes or
19 no?
20 A. I can't. Because if you
21 look at this e-mail, there's three
22 different e-mails.
23 Q. Are we talking about any
24 e-mail other than the April 3 e-mail

<p style="text-align: right;">Page 234</p> <p>1 where we just went through, in great 2 detail, everybody that was sent to and 3 who it was from? Anybody else, other 4 than that e-mail? 5 THE WITNESS: I wasn't 6 focused -- 7 MR. DELINSKY: Object to 8 form. It's less than clear 9 whether we're talking about just 10 that one e-mail or everything on 11 the same page. 12 BY MR. KENNEDY: 13 Q. Let me try this: Is the 14 subject line of the April 3, 2009 e-mail, 15 Updated DEA SOP; yes or no? 16 A. Yes. 17 Q. Great. Can we try to do 18 that moving forward? 19 A. I would love that. 20 MR. DELINSKY: Object to 21 form. 22 BY MR. KENNEDY: 23 Q. Now, it says, Good morning. 24 Attached is the DEA SOP -- standard</p>	<p style="text-align: right;">Page 236</p> <p>1 these people on the e-mail, this large 2 group, without counting, with respect to 3 this group of folks, the indication is 4 that if the DEA wants to know about our 5 policy, direct it to somebody else, 6 correct? 7 A. What Ms. Propatier appears 8 to express in this e-mail is if -- 9 Q. Isn't that what it says? 10 A. -- in the event of an audit 11 and the question comes up about the SOM 12 section, direct them to corporate, Frank, 13 who I understand her to be representing 14 Frank Devlin, or myself, Mrs. Propatier, 15 for an explanation of the program. 16 Q. What's being said here is 17 that none of these people here, none of 18 these people here know enough about what 19 CVS is doing to monitor suspicious orders 20 to answer questions by the DEA, correct? 21 Isn't that the clear implication? 22 MR. DELINSKY: Objection. 23 THE WITNESS: I don't have 24 corporate knowledge that that's</p>
<p style="text-align: right;">Page 235</p> <p>1 operating procedures -- which was 2 implemented in December of 2007. We have 3 made some recent updates to the SOP. 4 Please note we have updated the record 5 retention period from five years to two 6 years. Also, the SOM -- suspicious order 7 monitoring -- section is still not 8 included in the SOP. In the event of an 9 audit and the question comes up, please 10 direct them to corporate (Frank or 11 myself) for explanation of the program. 12 Please review with your teams and forward 13 to anyone I have missed. 14 We agree, at this point in 15 time now, it's April of '09, and the 16 standard -- or, excuse me, the suspicious 17 order monitoring section is still not 18 included in the standard operating 19 procedures, correct? 20 A. A final version is not 21 included in the standard operating 22 procedures being referenced by Mrs. 23 Propatier in this e-mail. 24 Q. And with respect to all of</p>	<p style="text-align: right;">Page 237</p> <p>1 the case. 2 BY MR. KENNEDY: 3 Q. You don't? 4 MR. DELINSKY: And I object 5 to the form of the question. 6 Just give me a second to 7 interpose my objections. 8 BY MR. KENNEDY: 9 Q. Clearly, Amy Propatier 10 doesn't want any of the people on this 11 e-mail answering questions to the DEA 12 about the suspicious order monitoring 13 policy, correct? Isn't that clear? 14 MR. DELINSKY: Object to 15 form. 16 THE WITNESS: I don't have 17 corporate knowledge of that. 18 Certainly, the e-mail 19 instructs that if, in the event of 20 an audit, a question comes up, 21 please direct them to corporate, 22 Frank or myself, for an 23 explanation of the program. 24 - - -</p>

Page 238

1 (Whereupon, CVS-Vernazza
 2 Exhibit-45,
 3 CVS-MDLT1-000090853-854, was
 4 marked for identification.)
 5 - - -
 6 MR. GOETZ: Exhibit-45.
 7 BY MR. KENNEDY:
 8 Q. I showed you Exhibit-45.
 9 We're going to -- we're
 10 moving forward three months from the
 11 April '09 e-mail. I'm going to move
 12 forward now to June of '09.
 13 And I want to look at the
 14 Amy Propatier e-mail, the middle one.
 15 And it's dated June 12th, 2009, all
 16 right? Subject, DEA standard operating
 17 procedure.
 18 If you look down at Number
 19 3, Amy Propatier states, Suspicious order
 20 monitoring-Section VIII D1B. This is
 21 incomplete. It states, These parameters
 22 are documented in SOP blank.
 23 And then she asks, When will
 24 this be completed? This is not completed

Page 239

1 yet.
 2 Indicating Frank has
 3 consultants working on the program.
 4 And Frank would be Frank
 5 Devlin, would that be true?
 6 A. To the best of my corporate
 7 knowledge, that is who I understood to be
 8 working primarily with outside
 9 consultants to develop the suspicious
 10 order monitoring process that was put in
 11 place and centralized in algorithmic
 12 fashion either in late 2008 or, to my
 13 understanding, the first half of 2009.
 14 So Ms. Propatier could be
 15 referencing just the policy section that
 16 she's talking about there.
 17 Q. And Mr. Devlin worked for
 18 CVS Pharmacy, Inc.; is that true?
 19 A. That is my understanding.
 20 Q. And this e-mail is
 21 indicating that this suspicious order
 22 monitoring section is still incomplete;
 23 is that the statement, sir?
 24 MR. DELINSKY: I would just

Page 240

1 like to object to the form of the
 2 question. You attributed certain
 3 statements in the e-mail to Ms.
 4 Propatier, where I believe Ms.
 5 Propatier is forwarding an e-mail
 6 from another person who makes the
 7 statement, and Ms. Propatier is
 8 providing answers.
 9 BY MR. KENNEDY:
 10 Q. Is that correct, sir?
 11 A. There is language in Ms.
 12 Propatier's e-mail, dated June 12th, 2009
 13 at 2:26 p.m., that says that a certain
 14 section of the SOP with respect to
 15 suspicious order monitoring is not yet
 16 complete.
 17 I do have --
 18 Q. And on behalf of CVS, do you
 19 disagree with that statement, that it was
 20 incomplete at this point in time?
 21 MR. DELINSKY: Object to
 22 form.
 23 BY MR. KENNEDY:
 24 Q. And this is June of '09.

Page 241

1 MR. DELINSKY: Object to
 2 form.
 3 BY MR. KENNEDY:
 4 Q. Do you disagree with that?
 5 MR. DELINSKY: Object to
 6 form.
 7 THE WITNESS: I don't object
 8 that the section in the SOP was
 9 not complete at that time.
 10 There was at this point, to
 11 the best of my corporate
 12 knowledge, a system that had been
 13 delivered and implemented by the
 14 Buzzeo Group and implemented
 15 within the CVS IT infrastructure,
 16 which was an algorithmic-based
 17 analysis of orders in connection
 18 with the company's suspicious
 19 order monitoring process.
 20 BY MR. KENNEDY:
 21 Q. The SOP is incomplete on
 22 this date.
 23 Do you disagree with that?
 24 MR. DELINSKY: Object to

Page 242

1 form.
2 BY MR. KENNEDY:
3 Q. Do you disagree with that
4 statement, that the suspicious order
5 monitoring section of your standard
6 operating procedures is still incomplete
7 as of June of '09?
8 A. I do not have corporate
9 knowledge that would indicate that a
10 statement that the written SOP --
11 Q. Correct.
12 A. -- with respect to the
13 suspicious order monitoring system was
14 incomplete as of the date of that e-mail.
15 Q. You don't have corporate
16 knowledge that it was incomplete?
17 You agree with her, don't
18 you, that it was incomplete?
19 A. I don't -- I don't have
20 knowledge on which I would disagree.
21 Q. Well, let me ask you this:
22 This is 2009, where were you in 2009?
23 Where were you in 2009?
24 A. Personally?

Page 243

1 Q. Yes.
2 A. I was working for a law firm
3 in Boston.
4 Q. And Amy Propatier was
5 working at CVS, correct?
6 A. That's correct.
7 Q. And she was involved in the
8 process of creating the suspicious order
9 monitoring policies and incorporating
10 that into your procedures, was she not?
11 MR. DELINSKY: Object to
12 form.
13 THE WITNESS: To the best of
14 my knowledge, she was.
15 BY MR. KENNEDY:
16 Q. And so in '09, you're at a
17 law firm, not at CVS. You're not
18 disagreeing with her, are you?
19 MR. DELINSKY: Object to
20 form.
21 BY MR. KENNEDY:
22 Q. You don't have any
23 information to disagree with her position
24 that this SOM was complete on this

Page 244

1 date -- incomplete?
2 MR. DELINSKY: Object to
3 form.
4 BY MR. KENNEDY:
5 Q. Correct?
6 MR. DELINSKY: Do you mean
7 an SOP or SOM?
8 BY MR. KENNEDY:
9 Q. This SOM was incomplete,
10 according to Amy Propatier, on that date,
11 true?
12 MR. DELINSKY: Eric, I think
13 you mean SOP.
14 BY MR. KENNEDY:
15 Q. No. The SOM was incomplete
16 on that date, true?
17 A. So now you're asking me a
18 different question than you asked me
19 before.
20 Q. Let's start back.
21 Do you disagree with Amy
22 Propatier, when she states on June 12th,
23 2009, that the suspicious order
24 monitoring section of the SOP was

Page 245

1 incomplete?
2 A. The suspicious order
3 monitoring section of the SOP, to my
4 knowledge, I don't have any information
5 that would suggest that is incorrect.
6 However --
7 Q. Fine.
8 A. -- based on my preparation
9 for this deposition, numerous interviews
10 that I have undertaken, to the best of
11 our corporate knowledge, the suspicious
12 order monitoring system that we engaged
13 the Buzzeo Group to provide had been
14 delivered and implemented within the CVS
15 IT infrastructure by this date.
16 But that --
17 MR. KENNEDY: I'm going to
18 move to strike. But go ahead and
19 finish.
20 THE WITNESS: It may not --
21 BY MR. KENNEDY:
22 Q. I asked you a very simple
23 question.
24 Do you disagree -- I didn't

<p style="text-align: right;">Page 246</p> <p>1 ask you what's been implemented somewhere 2 else. I know that's what you want to 3 tell us. I know that's what you've been 4 coached to tell us. A very simple 5 question. 6 MR. KENNEDY: I'm moving to 7 strike your other answer. 8 BY MR. KENNEDY: 9 Q. On this date, June 12th, 10 2009, do you disagree with Amy 11 Propatier's statement that the suspicious 12 order monitoring Section VIII D1B was 13 incomplete? Do you disagree with that 14 statement, on behalf of CVS, as we sit 15 here today? 16 MR. DELINSKY: Object to 17 form. 18 BY MR. KENNEDY: 19 Q. Do you disagree; yes or no? 20 MR. DELINSKY: Object to 21 form. This question already has 22 been answered. 23 MR. KENNEDY: Not even close 24 to being answered.</p>	<p style="text-align: right;">Page 248</p> <p>1 THE WITNESS: No. Based on 2 the investigation I've undertaken 3 in preparation for this 4 deposition, this entire section of 5 Section D was in draft placeholder 6 form, not simply Section D1B. 7 BY MR. KENNEDY: 8 Q. Let me ask you this: Being 9 developed and written, does it state that 10 anywhere else in the suspicious order 11 monitoring section other than in 1B? 12 Anywhere else? 13 A. That's not stated any place 14 else in the text of the document. But I 15 understand it to be true, from the -- 16 Q. So you understand -- 17 A. -- the preparation for this 18 deposition that I've undertaken. 19 Q. So you understand something 20 to be true that's different than what is 21 written in the standard operating 22 procedure manual; is that right? 23 MR. DELINSKY: Object to 24 form. Misstates the testimony.</p>
<p style="text-align: right;">Page 247</p> <p>1 BY MR. KENNEDY: 2 Q. Do you agree or disagree? 3 A. Based on the corporate 4 knowledge I have at this time, I do not 5 disagree with the statement that's made 6 here with respect to the SOP. 7 Q. Go back to Exhibit-7 for a 8 second. And look to Page 34274. 9 A. I'm sorry, which page? 10 MR. DELINSKY: 34274. 11 BY MR. KENNEDY: 12 Q. The section of the 13 suspicious order monitoring program and 14 policies that was incomplete, being 15 developed and written, was the order 16 quantity parameters for controlled drugs, 17 correct? 18 MR. DELINSKY: Objection. 19 BY MR. KENNEDY: 20 Q. That's what this indicates? 21 That's what hadn't been written yet; is 22 that what that states? 23 MR. DELINSKY: Objection. 24 Asked and answered.</p>	<p style="text-align: right;">Page 249</p> <p>1 THE WITNESS: I don't 2 believe that there's any portion 3 of this that necessarily indicates 4 that only 1B is in draft form. 5 Because I understand, from 6 my preparation for this deposition 7 and the interviews that I've 8 conducted, that this entire 9 section was in draft form. 10 BY MR. KENNEDY: 11 Q. Right. But as far as the 12 standard operating procedures, the 13 only -- where it says being developed and 14 written is with respect to the 15 parameters, correct? 16 A. I think the document speaks 17 for itself. It says what it says. 18 Q. And the document also speaks 19 for itself on Page 34237, the first page 20 of the document, if you could take a look 21 at that. 22 A. Could you say the number 23 again? I'm sorry. 24 Q. 34237.</p>

<p style="text-align: right;">Page 250</p> <p>1 A. Yes.</p> <p>2 Q. And do you see the second</p> <p>3 paragraph on that page? This is right in</p> <p>4 the beginning of the standard operating</p> <p>5 procedures.</p> <p>6 It states, Therefore, the</p> <p>7 following standard operating procedures</p> <p>8 were prepared in response to a need for a</p> <p>9 single source of current information for</p> <p>10 CVS regarding DEA and policies and the</p> <p>11 requirements of a Comprehensive Drug</p> <p>12 Abuse Prevention Act.</p> <p>13 Do you see where that</p> <p>14 statement is?</p> <p>15 A. I do.</p> <p>16 Q. It says this document is the</p> <p>17 single document, correct? Isn't that</p> <p>18 what it states?</p> <p>19 A. Not exactly.</p> <p>20 Q. Let's read again.</p> <p>21 Therefore, the following</p> <p>22 standard operating procedures were</p> <p>23 prepared in response to a need for a</p> <p>24 single source of current information for</p>	<p style="text-align: right;">Page 252</p> <p>1 letters and whether or not we've</p> <p>2 been able to locate those in our</p> <p>3 files.</p> <p>4 But I'm aware that -- of the</p> <p>5 three letters, I think, that</p> <p>6 you're referencing.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. Mr. Buzzeo sent those in</p> <p>9 2008, remember? He sent all three</p> <p>10 letters in 2008. You've got the three</p> <p>11 letters from the DEA, you've got them by</p> <p>12 June of '09; he sent them to you in '08,</p> <p>13 right?</p> <p>14 A. Can you direct me back</p> <p>15 towards the exhibit where we --</p> <p>16 Q. The record will stand.</p> <p>17 A. I believe you're correct.</p> <p>18 Q. I am correct. Let's just</p> <p>19 move on.</p> <p>20 A. But I'd have to go back and</p> <p>21 check.</p> <p>22 Q. We're still wondering about</p> <p>23 the drafting of the suspicious order</p> <p>24 monitoring policy. So let's look at 49.</p>
<p style="text-align: right;">Page 251</p> <p>1 CVS regarding DEA policies and the</p> <p>2 requirements of the Comprehensive Drug</p> <p>3 Abuse Prevention Act.</p> <p>4 Did I read that correctly?</p> <p>5 A. That you read correctly.</p> <p>6 As Ms. Propatier's e-mail</p> <p>7 indicates, the component with respect to</p> <p>8 suspicious order monitoring at this time</p> <p>9 was in draft form.</p> <p>10 Q. And by this time -- when she</p> <p>11 says that your suspicious order</p> <p>12 monitoring policies are still being</p> <p>13 drafted, at this point in time, it is</p> <p>14 June of 2009; and at this point in time,</p> <p>15 CVS has received three letters from the</p> <p>16 DEA outlining their responsibilities,</p> <p>17 correct? Three letters by this time,</p> <p>18 '09?</p> <p>19 MR. DELINSKY: Object to</p> <p>20 form. That misstates the</p> <p>21 testimony.</p> <p>22 THE WITNESS: We discussed</p> <p>23 that earlier this morning. We can</p> <p>24 go back through each of the</p>	<p style="text-align: right;">Page 253</p> <p>1 A. And I just want to be clear</p> <p>2 that at this point in time, it is my</p> <p>3 understanding --</p> <p>4 Q. There's no question in front</p> <p>5 of you, sir. There is no question in</p> <p>6 front of you.</p> <p>7 MR. DELINSKY: You may</p> <p>8 complete what you were saying.</p> <p>9 THE WITNESS: It was my</p> <p>10 understanding that at this point</p> <p>11 in time the company had engaged</p> <p>12 the Buzzeo Group to develop and</p> <p>13 deliver a set of algorithms that</p> <p>14 the company then implemented in</p> <p>15 its IT infrastructure and was</p> <p>16 reviewing the outputs of that,</p> <p>17 even before the SOP was no longer</p> <p>18 in draft form.</p> <p>19 MR. KENNEDY: And I'll move</p> <p>20 to strike. There's no question in</p> <p>21 front of you.</p> <p>22 - - -</p> <p>23 (Whereupon, CVS-Vernazza</p> <p>24 Exhibit-49,</p>

Page 254

1 CVS-MDLT1-000087889-890, was
2 marked for identification.)
3 - - -
4 BY MR. KENNEDY:
5 Q. Let's continue now.
6 MR. GOETZ: 49.
7 BY MR. KENNEDY:
8 Q. We're five months later,
9 Exhibit-49, five months later.
10 Let's look at CVS's --
11 whether or not they have any procedures
12 in place.
13 We have an e-mail dated
14 11/5/09. Do you see that, the top
15 e-mail? Do you see that? Does it state,
16 November 5, 2009, e-mail from Mr.
17 Mortelliti, correct?
18 A. That appears to be the date
19 of the e-mail. The subject of the e-mail
20 is, November 10th, 2009.
21 Q. Who is Mr. Mortelliti?
22 A. Mr. Mortelliti was an
23 individual within the CVS loss prevention
24 organization.

Page 255

1 Q. CVS Pharmacy, Incorporated,
2 correct?
3 A. To the best of my corporate
4 knowledge, that is correct.
5 Q. And did he have significant
6 responsibility for the creation, the
7 implementation of the suspicious order
8 monitoring policies?
9 A. I believe Mr. Mortelliti had
10 involvement in the implementation of both
11 the system that had been developed by the
12 Buzzeo Group, as well as input, perhaps,
13 to the best of my corporate knowledge, on
14 policies.
15 Q. So he was playing a big role
16 in this whole process, was he not?
17 MR. DELINSKY: Object to
18 form.
19 THE WITNESS: Mr. Mortelliti
20 played a role. He also played a
21 role as a primary personnel
22 assigned to the review of outputs
23 of the system of algorithms that
24 had been delivered to the company

Page 256

1 by the Buzzeo Group in late 2008
2 and put into place, to the best of
3 the company's knowledge, during
4 the first half of 2009.
5 MR. KENNEDY: I'm going to
6 move to strike as nonresponsive.
7 MR. DELINSKY: Just for the
8 record --
9 BY MR. KENNEDY:
10 Q. Let's go to --
11 MR. KENNEDY: Look, I got my
12 time.
13 MR. DELINSKY: Eric, just
14 for the record, I oppose the
15 motions to strike. That's for
16 another day.
17 MR. KENNEDY: That's fine.
18 BY MR. KENNEDY:
19 Q. Mr. Mortelliti -- now we're
20 in November '09. He writes, Sounds good.
21 I am trying to get a rough draft of the
22 suspicious order monitoring standard
23 operating procedure to you prior to the
24 meeting. This is a big issue with CVS

Page 257

1 and the DEA.
2 Do you agree that drafting
3 and having written suspicious order
4 monitoring policy, written and drafted,
5 now November of '09, was a big issue not
6 only for CVS but also for the DEA at that
7 point in time? Would you agree with that
8 statement on behalf of CVS?
9 A. I don't know what Mr.
10 Mortelliti is specifically addressing
11 here. The context of the e-mail is not
12 clear to me.
13 Q. Let me go back and read it
14 again.
15 A. But CVS's compliance with
16 DEA regulations is something that CVS
17 takes seriously.
18 Q. All right. Let's read it
19 again.
20 Mr. Mortelliti. I am trying
21 to get a rough draft suspicious order
22 monitoring standard operating procedure
23 to you prior to the meeting. This is a
24 big issue with CVS and the DEA.

Page 258

1 He is speaking about the
2 suspicious order monitoring policies, is
3 he not?
4 MR. DELINSKY: Object to
5 form.
6 THE WITNESS: I don't know
7 exactly what Mr. Mortelliti was
8 addressing there.
9 BY MR. KENNEDY:
10 Q. You do not?
11 On behalf of CVS, who you
12 are here representing, would you disagree
13 that at this point in time, the drafting
14 of suspicious order monitoring policies
15 were a big issue for CVS and the DEA at
16 this point in time? It's now November of
17 2009.
18 A. In November of 2009, it's my
19 understanding that CVS had the Buzzeo
20 algorithmic-based system in place.
21 This references drafting a
22 suspicious order monitoring SOP prior to
23 a meeting, the context of which is
24 unclear from the face of the e-mail.

Page 259

1 I have not reviewed this
2 e-mail in preparation for this
3 deposition, nor have I had an opportunity
4 to speak with Mr. Mortelliti about what
5 he was communicating here.
6 So, unfortunately, I don't
7 have corporate knowledge as to exactly
8 what that means.
9 Q. I'm going to talk to you --
10 independent of the statement by Mr.
11 Mortelliti, who is the responsible guy at
12 CVS, despite his statement that this is a
13 big issue for CVS and DEA, putting that
14 aside, I'm asking you, as the corporate
15 representative of CVS, whether or not at
16 this point in time, November of 2009,
17 whether or not getting a draft of a
18 suspicious order monitoring policy was a
19 big issue for CVS and the DEA at this
20 point in time?
21 What is your answer, as the
22 corporate representative of CVS,
23 independent of Mr. Mortelliti?
24 MR. DELINSKY: Object to

Page 260

1 form.
2 THE WITNESS: My response is
3 that compliance with DEA
4 regulations is important to CVS.
5 Beyond that, it's not
6 abundantly clear what Mr.
7 Mortelliti is referencing here and
8 the extent to which the draft of
9 the SOP was something that he was
10 particularly concerned about or
11 others at CVS were particularly
12 concerned about at the time.
13 That's just something on which I
14 don't have corporate knowledge
15 that I acquired in the course of
16 preparation for this deposition.
17 But CVS does take compliance
18 with DEA regulations seriously.
19 BY MR. KENNEDY:
20 Q. I know what Mr. Mortelliti
21 believes.
22 I want to know whether you
23 have a position, as the corporate
24 representative for CVS, as of November of

Page 261

1 2009, on behalf of CVS, do you have a
2 position as to whether or not drafting
3 suspicious order monitoring policies was
4 a big issue to CVS and the DEA?
5 MR. DELINSKY: Object to
6 form. Object, asked and answered.
7 THE WITNESS: I don't know
8 whether Mr. Mortelliti --
9 BY MR. KENNEDY:
10 Q. I don't care about Mr.
11 Mortelliti.
12 I'm asking you, as the
13 designated corporate representative of
14 CVS here today, I want to know your
15 position.
16 Was it a big issue of CVS
17 and the DEA, at this point in time, for
18 CVS to draft suspicious order monitoring
19 policies? I'm asking you, as the
20 corporate representative.
21 MR. DELINSKY: Object to
22 form. Object, asked and answered.
23 And I object to the interruption
24 of the witness.

Page 262

1 Mr. Kennedy, I would ask
2 that you let the witness complete
3 his answers.
4 THE WITNESS: It has always
5 been important to CVS to follow
6 DEA regulations.
7 BY MR. KENNEDY:
8 Q. All right. And one of the
9 regulations by 2009, after the DEA has
10 already written you three letters, would
11 be to have a written suspicious order
12 monitoring policy, correct?
13 MR. DELINSKY: Object to
14 form.
15 THE WITNESS: CVS, at this
16 point, had undertaken and
17 committed resources to engaging
18 the Buzzeo Group to deliver a
19 suspicious order monitoring set of
20 algorithms and dedicated resources
21 to operationalizing those
22 algorithms within its IT
23 infrastructure and committing
24 personnel to reviewing those

Page 263

1 reports in order to determine
2 whether or not orders were
3 suspicious.
4 MR. KENNEDY: I'm going to
5 move to strike.
6 Would you read my question
7 back, please? I'm entitled to an
8 answer.
9 - - -
10 (Whereupon, the court
11 reporter read the following part
12 of the record:
13 "Question: And one of the
14 regulations by 2009, after the DEA
15 has already written you three
16 letters, would be to have a
17 written suspicious order
18 monitoring policy, correct?")
19 - - -
20 MR. DELINSKY: Same
21 objections.
22 THE WITNESS: I'm not aware
23 of any DEA regulation requiring us
24 to have a written policy with

Page 264

1 respect to the suspicious order
2 monitoring system that we had in
3 place at this time.
4 BY MR. KENNEDY:
5 Q. All right. And is that the
6 position and the answer of CVS, that you
7 just stated? Very simple.
8 A. I'm unaware of any DEA
9 regulation that would require us, at this
10 time, to have a written policy with
11 respect to the system that we were using
12 to flag, evaluate and potentially report
13 suspicious orders.
14 Q. Very simple, that's the
15 position of CVS, correct? You're
16 speaking for CVS at this point in time,
17 true?
18 MR. DELINSKY: Object to
19 form.
20 BY MR. KENNEDY:
21 Q. Very simple question.
22 Are you speaking on behalf
23 of CVS at this point with that answer?
24 MR. DELINSKY: Object to

Page 265

1 form. Asked and answered. The
2 witness stated he is unaware --
3 BY MR. KENNEDY:
4 Q. It's a yes-or-no question.
5 Are you speaking on behalf
6 of the CVS defendants in this case?
7 A. The --
8 Q. Are you speaking on behalf
9 of the CVS defendants in this case? Very
10 simple, yes-or-no question, sir.
11 A. To the best of my corporate
12 knowledge at this point in time, I'm
13 unaware of any specific DEA regulation
14 that requires a written policy as opposed
15 to the system that we had in place.
16 Q. And you're speaking on
17 behalf of CVS when you just gave that
18 answer; is that true?
19 A. That is to the best of my
20 corporate knowledge.
21 Q. All right. Thank you.
22 - - -
23 (Whereupon, CVS-Vernazza
24 Exhibit-34, CVS-MDLT1-000061097,

Page 266

1 was marked for identification.)
2 - - -
3 MR. GOETZ: 34.
4 BY MR. KENNEDY:
5 Q. I think this is later in the
6 same month, Exhibit-34.
7 This is a Logistics LP
8 update. Logistics LP would be a part of
9 CVS Pharmacy, Inc.; would that be true?
10 A. The logistics department
11 could include individuals -- could be
12 used -- that terminology could be used to
13 refer to individuals in warehouses who
14 would be employed by the individual
15 entities that own those distribution
16 centers.
17 Q. Right.
18 A. And it could be used also to
19 refer to corporate personnel with
20 responsibilities with respect to the
21 logistics operation as well.
22 Q. The date of this update
23 would be November 10th, 2009, true?
24 A. That's the date reflected at

Page 267

1 the top.
2 Q. And does this state under
3 regulatory, one, two, three, four, five
4 down, starting with John Mortelliti, and
5 does it state, John Mortelliti working
6 with field LP regarding suspicious order
7 monitoring SOPs?
8 Is that what it states?
9 A. It does.
10 MR. KENNEDY: Exhibit-43,
11 please.
12 - - -
13 (Whereupon, CVS-Vernazza
14 Exhibit-43, CVS-MDLT1-000081281,
15 was marked for identification.)
16 - - -
17 MR. DELINSKY: Let's take a
18 break after this exhibit.
19 MR. KENNEDY: Sure.
20 BY MR. KENNEDY:
21 Q. 43, if you look at the
22 bottom e-mail from Amy Propatier -- Amy
23 Propatier is logistics service manager
24 with corporate CVS/DEA compliance

Page 268

1 coordinator, true?
2 A. That appears to be her title
3 at the time.
4 Q. And this would be a December
5 11, 2009 e-mail to a large group of
6 people at CVS, true?
7 A. The e-mail on the bottom is
8 that. Again, I don't know exactly how
9 you would characterize large, but there's
10 a number of individuals here.
11 Q. And the subject would be, RX
12 DEA standard operating procedures again,
13 correct?
14 A. I think it says SOP.
15 Q. What does SOP stand for,
16 sir?
17 A. In this context, I would
18 presume it to mean standard operating
19 procedures. But that's not what the text
20 of the document says.
21 Q. It says, Good afternoon --
22 from Amy Propatier -- Attached is the DEA
23 RX standard operating procedures.
24 Revisions have been made to the document.

Page 269

1 Please review the standard operating
2 procedures in its entirety for a
3 follow-up conference call on Thursday,
4 12/17. This is an operational-driven
5 standard operating procedure.
6 Do you see that?
7 A. Again, you've articulated,
8 in long form, standard operating
9 procedure for SOP, but I do see the
10 portion that you're referencing.
11 Q. Sir, she says, Attached are
12 the standard operating procedures.
13 You understand that it's now
14 December of '09, and there is still no
15 completed section for suspicious order
16 monitoring?
17 Do you understand that, sir,
18 that what she attached still does not
19 have any provisions, any policies that
20 have been completed for suspicious order
21 monitoring? Do you understand that at
22 this time, sir?
23 MR. DELINSKY: I interpose
24 an objection to the use of this

Page 270

1 exhibit, absent the attachment.
2 BY MR. KENNEDY:
3 Q. Sir, do you understand that?
4 MR. DELINSKY: It is unfair
5 to the witness to ask him
6 questions about a document, when
7 the attachment you're inquiring
8 about is not --
9 MR. KENNEDY: Just object.
10 Come on, man, I have limited time.
11 Just object.
12 BY MR. KENNEDY:
13 Q. Answer my question, sir,
14 please?
15 A. Without reviewing the
16 attachment to this particular e-mail, it
17 would be hard for me to answer the
18 question.
19 Q. Just let me ask you this,
20 and maybe we can move on.
21 You took four weeks to look
22 at this. You don't understand that in
23 December of '09 CVS has still not drafted
24 any suspicious order monitoring policies?

Page 271

1 Don't you understand that from your
2 review? They still hadn't?
3 MR. DELINSKY: Object to
4 form.
5 BY MR. KENNEDY:
6 Q. Correct? Isn't that true?
7 MR. DELINSKY: Object to
8 form.
9 THE WITNESS: To the best of
10 my corporate knowledge, the
11 suspicious order monitoring
12 section of the centralized DEA
13 policy and procedure remained in
14 draft or placeholder form, I
15 believe, into some point in 2010.
16 Meanwhile, there was a
17 system of review that was -- that
18 was ongoing.
19 BY MR. KENNEDY:
20 Q. And, sir, at this point, the
21 standard operating procedures have been
22 in place for almost three years and CVS
23 still does not have a suspicious order
24 monitoring section that's complete, after

Page 272

1 almost three years, correct?
2 MR. DELINSKY: Object to
3 form.
4 THE WITNESS: I'd have to
5 look back at the exhibit with the
6 date of the --
7 BY MR. KENNEDY:
8 Q. The first one was put into
9 place on 12/1/07; your standard operating
10 procedures are put into place on 12/1/07
11 without a section on suspicious order
12 monitoring. And now it is December of
13 '09.
14 A. I think that's two years,
15 isn't it?
16 Q. Two years. I'm sorry.
17 So we're at two years, and
18 they still haven't drafted the section on
19 suspicious order monitoring; isn't that
20 what's going on?
21 A. To the best of my corporate
22 knowledge, the section of that SOP, with
23 respect to suspicious order monitoring,
24 remained in draft form at that time.

Page 273

1 Q. And it's going to be in
2 draft form for almost another nine
3 months, right?
4 MR. DELINSKY: Object to
5 form.
6 THE WITNESS: Without seeing
7 the document, I can't recall the
8 exact date when the draft was
9 updated.
10 BY MR. KENNEDY:
11 Q. All right.
12 VIDEO TECHNICIAN: The time
13 is 2:31 p.m. We're going off the
14 record.
15 - - -
16 (Whereupon, a brief recess
17 was taken.)
18 - - -
19 (Whereupon, CVS-Vernazza
20 Exhibit-8,
21 CVS-MDLT1-000024877-941, was
22 marked for identification.)
23 - - -
24 VIDEO TECHNICIAN: The time

Page 274

1 is 2:47 p.m. We are back on the
2 record.
3 MR. DELINSKY: Mr. Kennedy,
4 before you begin, the witness has
5 a clarification to make.
6 MR. KENNEDY: Please.
7 THE WITNESS: Yes.
8 Previously when we were discussing
9 one of the DEA letters, and
10 specifically, one component of the
11 letter that spoke about emphasis
12 that the foregoing requirement is
13 in addition to and not in lieu of
14 the general requirements, the
15 distributor maintain effective
16 controls against diversion, there
17 was some other language in
18 addition to reporting --
19 MR. KENNEDY: I can't hear
20 you at all.
21 MR. DELINSKY: Let's start
22 with the exhibit number and the
23 paragraph.
24 THE WITNESS: Yes, that's a

Page 275

1 good idea.
2 MR. KENNEDY: And this is
3 not part of my time. Whatever
4 you -- you can clarify for a half
5 hour, if you want, but this is not
6 being counted on our time.
7 Agreeable?
8 MR. DELINSKY: No.
9 MR. KENNEDY: Mark the time,
10 please.
11 There's no question in front
12 of the witness. But go ahead.
13 THE WITNESS: With respect
14 to Exhibit-46 that was shown to me
15 earlier, in particular the portion
16 that discusses, In addition to
17 reporting all suspicious orders, a
18 distributor has a statutory
19 responsibility to exercise due
20 diligence to avoid filling
21 suspicious orders that might be
22 diverted into other than
23 legitimate medical, scientific or
24 industrial channels, you asked me

Page 276

1 whether or not I knew of anyone at
2 CVS, in 2006, who disagreed with
3 that statement.
4 And I just want to be clear,
5 I believe my response was that I
6 didn't have corporate knowledge
7 that CVS disagreed with that
8 statement.
9 What I was attempting to
10 express, and hopefully the record
11 is clear, is that in the course of
12 my preparation for this
13 deposition, I did not speak with
14 anybody at CVS who told me that
15 CVS disagreed or agreed with that
16 statement from this letter in
17 2006.
18 Based on my corporate
19 knowledge, in preparation for the
20 deposition, I hadn't spoken to
21 anybody who told me that they
22 agree with that or disagree with
23 that.
24 I do recognize that that

Page 277

1 language does not appear in the
2 suspicious order monitoring
3 regulation.
4 I just wanted to make that
5 clear, to the extent that it was
6 unclear before. What I said is
7 now in clarification. I don't
8 believe it's inconsistent with my
9 testimony earlier. I just wanted
10 to make sure the record was clear
11 on that point.
12 BY MR. KENNEDY:
13 Q. And was that clarification
14 pointed out to you by counsel at the
15 break? Or is that something you came up
16 with all on your own?
17 A. The clarification is
18 something all of my own. Counsel pointed
19 out to me the testimony on a break, and
20 simply asked me whether I would like to
21 make a clarification as to that
22 testimony.
23 Upon reviewing it, I
24 concluded that I would like to make that

<p style="text-align: right;">Page 278</p> <p>1 clarification.</p> <p>2 Q. All right. Let's move on.</p> <p>3 Are you ready? Anything</p> <p>4 else you want to clarify at this point?</p> <p>5 A. No, sir.</p> <p>6 Q. When we broke, we were</p> <p>7 talking about the standard operating</p> <p>8 procedures that were implemented on</p> <p>9 12/11/09.</p> <p>10 Take a look at Exhibit-8, if</p> <p>11 you would, please. Look at the cover</p> <p>12 page, if you would, please.</p> <p>13 Is the title, CVS</p> <p>14 Distribution Center Controlled Drug-DEA</p> <p>15 Standard Operating Procedures Manual?</p> <p>16 A. It is.</p> <p>17 Q. And the first one was put</p> <p>18 into effect on 12/1/07.</p> <p>19 We've looked at that one,</p> <p>20 true?</p> <p>21 A. It indicates that the</p> <p>22 effective date of the policy is 12/1/07.</p> <p>23 Q. So the answer to my question</p> <p>24 would be yes?</p>	<p style="text-align: right;">Page 280</p> <p>1 blank, order quantity parameters for</p> <p>2 controlled drugs -- capital letters --</p> <p>3 being developed and written.</p> <p>4 The same statement we had</p> <p>5 two years earlier, true?</p> <p>6 A. Yes. I believe that the</p> <p>7 entire section remains essentially the</p> <p>8 same in the draft form.</p> <p>9 Q. All right. Let's look at</p> <p>10 two months later. CVS creates and posts</p> <p>11 another revision, another revision of its</p> <p>12 standard operating procedures.</p> <p>13 - - -</p> <p>14 (Whereupon, CVS-Vernazza</p> <p>15 Exhibit-44,</p> <p>16 CVS-MDLT1-000089315-379, was</p> <p>17 marked for identification.)</p> <p>18 - - -</p> <p>19 BY MR. KENNEDY:</p> <p>20 Q. Do you recall that, that now</p> <p>21 this is the third set, the original back</p> <p>22 in '07, now it's January of '10, and we</p> <p>23 have our second revision of the standard</p> <p>24 operating procedure?</p>
<p style="text-align: right;">Page 279</p> <p>1 MR. DELINSKY: Object to</p> <p>2 form.</p> <p>3 THE WITNESS: We looked at</p> <p>4 the exhibit earlier. I could go</p> <p>5 back through and find it. It is</p> <p>6 consistent with my recollection of</p> <p>7 what we looked at.</p> <p>8 BY MR. KENNEDY:</p> <p>9 Q. Revision date now is</p> <p>10 12/11/09.</p> <p>11 And that's what we are</p> <p>12 looking at is the 12/11/09 version of the</p> <p>13 standard operating procedures, correct?</p> <p>14 A. That appears to be the case.</p> <p>15 Q. If you look at the section</p> <p>16 on suspicious order monitoring, which is</p> <p>17 24916, do you see that? Do you see that</p> <p>18 section, suspicious order monitoring,</p> <p>19 correct? That's the section?</p> <p>20 A. I do.</p> <p>21 Q. Look to the next page, if</p> <p>22 you would, and does B state the same</p> <p>23 thing that it's stated two years before,</p> <p>24 These parameters are documented in SOP</p>	<p style="text-align: right;">Page 281</p> <p>1 Do you remember that?</p> <p>2 A. I'm sorry, could you repeat</p> <p>3 the question?</p> <p>4 Q. Is this the second revision</p> <p>5 now, Exhibit-44?</p> <p>6 MR. DELINSKY: Object to</p> <p>7 form.</p> <p>8 THE WITNESS: This is a</p> <p>9 revision dated January 28th, 2010.</p> <p>10 BY MR. KENNEDY:</p> <p>11 Q. Correct.</p> <p>12 A. I believe it is the second</p> <p>13 revision of this particular form that</p> <p>14 we've looked at today. I don't have</p> <p>15 corporate knowledge as to whether or not</p> <p>16 it is the -- only the second revision of</p> <p>17 the document in general.</p> <p>18 Q. This was originally created</p> <p>19 on 12/1/07, correct?</p> <p>20 A. That's what it says is the</p> <p>21 effective date, yes.</p> <p>22 Q. And we just looked at the</p> <p>23 12/09, correct?</p> <p>24 A. That's correct.</p>

Page 282	Page 284
<p>1 Q. And now we're looking at the 2 1/28/10, correct? 3 A. Also correct. 4 Q. All right. And the second 5 paragraph, again, it states, Therefore, 6 the following standard operating 7 procedures were prepared in response to a 8 need for a single source of current 9 information for CVS regarding DEA 10 policies and the requirements of the 11 Comprehensive Drug Abuse Prevention Act. 12 Did I read that correctly? 13 A. I believe you did. 14 Q. And let's look to the 15 suspicious order monitoring section 16 again. And that is 8937 -- excuse me -- 17 that is 89354. 18 89354, the suspicious order 19 monitoring section, true? 20 A. I see a section entitled, 21 Suspicious Order Monitoring. 22 Q. And it's January of 2010 23 now. And if we look to the next page, it 24 once again states, These parameters are</p>	<p>1 form. Perhaps if you could show 2 him the document, the question 3 will be more fair. 4 MR. KENNEDY: Do you have 5 them? We don't have them. 6 MR. DELINSKY: If we had it, 7 we produced it. 8 MR. KENNEDY: Fine. 9 BY MR. KENNEDY: 10 Q. Have you seen them -- have 11 you seen the April 30, 2010 standard 12 operating procedures? 13 A. Not to my knowledge. But I 14 looked at a lot of documents and don't 15 remember the date of them all. 16 I don't have a specific 17 recollection of seeing that document. 18 Q. From other documents that 19 we'll talk about, the suspicious order 20 monitoring section once again has the 21 language, Being developed and written, in 22 April of 2010. 23 Do you have any corporate 24 knowledge to disagree with that, that it</p>
Page 283	Page 285
<p>1 documented in SOP blank, order quantity 2 parameters for controlled drugs -- 3 capital letters -- being developed and 4 written, once again, correct? 5 A. Yes. That's consistent with 6 my understanding that this section 7 remained in draft form at this time. 8 Q. All right. Let's move 9 forward now. Now to three months later. 10 We know, from looking at 11 later versions, on April 30th, 2010, CVS 12 put into effect another revised set of 13 standard operating procedures. 14 Do you understand that from 15 your study of this case? 16 A. I don't recall that specific 17 fact. 18 Q. Let me ask you this: Have 19 you -- in the search you have done, the 20 study you have done, have you located 21 anywhere and seen the standard operating 22 procedures for controlled drugs put into 23 effect on 4/30/2010? 24 MR. DELINSKY: Object to</p>	<p>1 still remains incomplete as of April 30, 2 2010? 3 MR. DELINSKY: Object to 4 form. 5 THE WITNESS: I haven't seen 6 that document, so can't testify as 7 to that particular document. 8 Although, as a more general 9 matter, based on my corporate 10 knowledge at this point in time, 11 that's consistent with my 12 understanding. 13 MR. KENNEDY: Give me 14 Exhibit-48. I think you have it. 15 - - - 16 (Whereupon, CVS-Vernazza 17 Exhibit-48, CVS Controlled Drug 18 Manual: Suspicious Order 19 Monitoring Procedure, was marked 20 for identification.) 21 - - - 22 BY MR. KENNEDY: 23 Q. To summarize here, to catch 24 up to where we're at, first creation of</p>

<p style="text-align: right;">Page 286</p> <p>1 standard operating procedures by CVS was 2 12/1/07. 3 And with respect to the 4 section on suspicious order monitoring 5 and the parameters it stated, did it not, 6 Being developed and written, in the first 7 one, true? 8 MR. DELINSKY: Object to 9 form. Object to this exhibit 10 absent further information about 11 who created it. And object to the 12 information printed on the 13 exhibit -- 14 MR. KENNEDY: This is an 15 exhibit -- 16 MR. DELINSKY: -- as 17 misstating the testimony. 18 MR. KENNEDY: This is an 19 exhibit that we created. 20 BY MR. KENNEDY: 21 Q. The first one we looked at, 22 the first operating procedures, with 23 respect to suspicious order monitoring, 24 had a paragraph that we read saying,</p>	<p style="text-align: right;">Page 288</p> <p>1 Was that written in the 2 document two years later on 12/11/09? 3 Was that written in the document, your 4 standard operating procedures? 5 A. That's consistent with my 6 recollection. I could look back at the 7 document and confirm it if you'd like. 8 Q. January of '10, we just 9 looked at that document, it said the same 10 thing, Being developed and written, 11 correct? 12 MR. DELINSKY: Object to 13 form. 14 THE WITNESS: Again, I 15 remember that language being 16 included in that written document 17 that we looked at earlier. I 18 could again look at the document 19 and confirm. 20 BY MR. KENNEDY: 21 Q. Now it's April of 2010. At 22 this point in time, it's been nearly four 23 years since the DEA wrote CVS its first 24 letter, correct? Nearly four years by</p>
<p style="text-align: right;">Page 287</p> <p>1 Being developed and written, did it not? 2 A. I remember that language 3 from the written policy that was in draft 4 form at that time. 5 Q. Two years later, the written 6 policy, intended to be the single 7 document to describe these policies, two 8 years later, same thing, being developed 9 and written, correct? 10 MR. DELINSKY: Object to 11 form. 12 BY MR. KENNEDY: 13 Q. We looked at that, did we 14 not? 15 MR. DELINSKY: Object to 16 form. 17 THE WITNESS: Again, with 18 respect to the written document 19 that we looked at, I remember this 20 language being included. 21 I think as I explained, 22 there was a system -- 23 BY MR. KENNEDY: 24 Q. I didn't ask you that.</p>	<p style="text-align: right;">Page 289</p> <p>1 April of 2010, would that be true, sir? 2 A. I just need to refresh on 3 the original date of the 2006 letter. 4 Q. Sir, you can assume that 5 just a few hours ago we looked at the '06 6 letter from the DEA, did we not? 7 A. Yeah. I believe it was 8 September of 2006. But, again, I have a 9 large stack of exhibits in front of me. 10 And I can just try to confirm the date. 11 Yeah, September 27 of 2006. 12 Q. So it's been nearly four 13 years since the DEA wrote your -- the 14 first letter. 15 And by this point in time, 16 the DEA has written three letters total, 17 have they not? 18 MR. DELINSKY: Object to 19 form. 20 BY MR. KENNEDY: 21 Q. By April of 2010, the DEA 22 has written three letters, true? 23 MR. DELINSKY: Object to 24 form.</p>

Page 290

1 THE WITNESS: We have
2 discussed three letters today that
3 were apparently written by the DEA
4 that predated 4/30/2010.
5 BY MR. KENNEDY:
6 Q. And by April of 2010, it's
7 been 40 years since the federal
8 regulations said that you shall have a
9 system to disclose suspicious orders,
10 correct? It's been 40 years by April of
11 2010, would that be true, sir?
12 MR. DELINSKY: Object to
13 form.
14 THE WITNESS: I'm not
15 certain the exact number of years.
16 BY MR. KENNEDY:
17 Q. Decades?
18 A. Something close to 40 years
19 since the enactment of the Controlled
20 Substances Act.
21 As I've mentioned, at this
22 point in time, we had operationalized a
23 set of algorithms that had been delivered
24 by the Buzzeo Group.

Page 291

1 Q. Sir, this is April of 2010.
2 Four months later, things
3 changed quickly at CVS, correct? In
4 August of 2010, things changed quickly at
5 CVS with respect to suspicious order
6 monitoring policy, did they not?
7 MR. DELINSKY: Object to
8 form.
9 BY MR. KENNEDY:
10 Q. You reviewed all these
11 documents, and you have interviewed 40
12 people.
13 In August of 2010, things
14 changed quickly for CVS with respect to
15 its responsibility and creation and
16 implementation of a system to monitor
17 suspicious orders?
18 MR. DELINSKY: Objection.
19 Object to form.
20 THE WITNESS: Based on my
21 corporate knowledge that I have
22 developed in preparation for this
23 deposition, I can't say that
24 that's correct.

Page 292

1 BY MR. KENNEDY:
2 Q. Sir, you know, and you
3 understand very well, that in August of
4 2010, the DEA came knocking on CVS's door
5 to do an inspection and audit and to
6 investigate, correct?
7 A. I believe that our
8 distribution facilities had undergone a
9 number of audits throughout the course of
10 many years.
11 I'm aware of an audit that
12 occurred in the Indianapolis distribution
13 center in approximately 2010, when
14 suspicious order monitoring was discussed
15 with company personnel --
16 Q. Sir, I didn't ask what was
17 discussed and what went on. And I will
18 ask you that. I'm just asking the simple
19 question.
20 The DEA came knocking to
21 your distribution centers in 2010 to
22 inspect and to audit and to investigate,
23 correct? We're going to go through what
24 they did, but that's when they came?

Page 293

1 A. My understanding is it was
2 an audit. To the best of my knowledge,
3 the Indianapolis distribution center had
4 gone through what are essentially routine
5 audits on a cyclical basis, essentially
6 every three years, since CVS owned the
7 facility.
8 Q. But this one was different.
9 This presented a problem for
10 CVS in August 2010, correct, because they
11 asked, they asked for your suspicious
12 order monitoring policies, right?
13 MR. DELINSKY: Object to
14 form.
15 BY MR. KENNEDY:
16 Q. They asked for them and you
17 didn't have them in place, correct?
18 MR. DELINSKY: Object to
19 form. Objection, misstates the
20 testimony.
21 THE WITNESS: I'm not sure I
22 have clear corporate knowledge on
23 the policies that may or may not
24 have been provided to the DEA at

<p style="text-align: right;">Page 294</p> <p>1 that time.</p> <p>2 I am aware that suspicious</p> <p>3 order monitoring was discussed</p> <p>4 with the DEA and that the DEA made</p> <p>5 no adverse findings with respect</p> <p>6 to the company's suspicious order</p> <p>7 monitoring system.</p> <p>8 BY MR. KENNEDY:</p> <p>9 Q. So the answer to my question</p> <p>10 is, yes, they asked for your policies in</p> <p>11 August of 2010? They asked for them, do</p> <p>12 you remember that?</p> <p>13 A. I remember that has been</p> <p>14 a -- there was a discussion about</p> <p>15 suspicious order monitoring at that time.</p> <p>16 Q. Maybe this will help you,</p> <p>17 sir.</p> <p>18 A. It's consistent with my</p> <p>19 recollection that policies were asked for</p> <p>20 and/or provided.</p> <p>21 I don't believe I have more</p> <p>22 specific recollection than that.</p> <p>23 - - -</p> <p>24 (Whereupon, CVS-Vernazza</p>	<p style="text-align: right;">Page 296</p> <p>1 distribution center.</p> <p>2 Q. So he's in Indianapolis.</p> <p>3 And the subject is, DEA</p> <p>4 visits, 8/24, 8/26 and 8/31, 9/1/2010,</p> <p>5 true? Is that true?</p> <p>6 Is that what the subject</p> <p>7 says, sir?</p> <p>8 A. DEA visits 8/24 to 8/26</p> <p>9 and --</p> <p>10 Q. Is that what --</p> <p>11 A. -- 8/31 to 9/1/2010 --</p> <p>12 Q. You don't have to repeat my</p> <p>13 question, we're short on time.</p> <p>14 If the answer is yes, please</p> <p>15 just give me a yes.</p> <p>16 A. I'm just trying to make sure</p> <p>17 I accurately answer your question.</p> <p>18 Q. It says, Results of the</p> <p>19 inspection. The DEA inspectors, Madeline</p> <p>20 Kuzma and Elizabeth Stewart, was on site</p> <p>21 at the Indianapolis facility on Tuesday,</p> <p>22 August 24, 2010 through Thursday, August</p> <p>23 26th, 2010, and again on Tuesday, August</p> <p>24 31, 2010 and Wednesday, September 1,</p>
<p style="text-align: right;">Page 295</p> <p>1 Exhibit-32,</p> <p>2 CVS-MDLT1-000076284-285, was</p> <p>3 marked for identification.)</p> <p>4 - - -</p> <p>5 BY MR. KENNEDY:</p> <p>6 Q. 32. I'll show you</p> <p>7 Exhibit-32, please.</p> <p>8 32 looks like a memo with</p> <p>9 respect to the DEA inspection in August</p> <p>10 of 2010. The memo is to Frank Devlin.</p> <p>11 And Frank Devlin, tell us</p> <p>12 his position.</p> <p>13 A. Mr. Devlin was loss</p> <p>14 prevention. He was among the loss</p> <p>15 prevention personnel responsible for CVS</p> <p>16 distribution centers.</p> <p>17 Q. And he worked for CVS</p> <p>18 Pharmacy, Inc, would that be true?</p> <p>19 A. To the best of my</p> <p>20 understanding, that's true.</p> <p>21 Q. And who is Terrence Dugger?</p> <p>22 A. To the best of my corporate</p> <p>23 knowledge, Mr. Dugger was in loss</p> <p>24 prevention at the Indianapolis</p>	<p style="text-align: right;">Page 297</p> <p>1 2010.</p> <p>2 Did I read that correctly?</p> <p>3 A. I believe you did.</p> <p>4 Q. Their purpose was to conduct</p> <p>5 a full inspection.</p> <p>6 Requested information. You</p> <p>7 go down, under requested information, the</p> <p>8 fourth bullet down is, SOM SOP.</p> <p>9 The DEA requested the</p> <p>10 suspicious order monitoring standard</p> <p>11 operating procedure of CVS in August of</p> <p>12 2010, true?</p> <p>13 A. Under requested information,</p> <p>14 SOM SOP appears in this document.</p> <p>15 Q. And that presented a problem</p> <p>16 because you didn't have one that had been</p> <p>17 approved and in place in your standard</p> <p>18 operating procedures, correct?</p> <p>19 MR. DELINSKY: Object to</p> <p>20 form.</p> <p>21 THE WITNESS: I don't have</p> <p>22 corporate knowledge as to whether</p> <p>23 or not that presented a problem.</p> <p>24 I do know that the DEA made</p>

<p style="text-align: right;">Page 298</p> <p>1 some findings as a result of this 2 inspection. 3 BY MR. KENNEDY: 4 Q. I'm not asking about the 5 findings. 6 MR. DELINSKY: Please don't 7 interrupt him. 8 MR. KENNEDY: I'm going to 9 move to strike. He's just got to 10 answer my question. 11 BY MR. KENNEDY: 12 Q. That presented a problem 13 because you didn't have it yet? 14 MR. DELINSKY: You can 15 complete your answer, Mr. 16 Vernazza. 17 THE WITNESS: I don't have 18 corporate knowledge that it 19 presented a problem. I do know 20 that there were some findings made 21 in connection with this audit and 22 that not having an SOM SOP was not 23 among the findings that the DEA 24 made.</p>	<p style="text-align: right;">Page 300</p> <p>1 suspicious order monitoring process. 2 Q. Let's see what CVS did when 3 the DEA asked for their policies. 4 MR. KENNEDY: Exhibit-40, 5 please. 6 - - - 7 (Whereupon, CVS-Vernazza 8 Exhibit-40, CVS-MDLT1-000089188, 9 was marked for identification.) 10 - - - 11 BY MR. KENNEDY: 12 Q. Start at the bottom, because 13 that's the first e-mail. 14 The bottom e-mail, Mr. 15 Devlin, CVS Pharmacy, Inc. on August 23, 16 2010, he's writing Mr. Mortelliti and Amy 17 Propatier, subject, DEA SOP. 18 And he says, Good morning, 19 John -- and this is while the audit is 20 going on -- can you work with Amy to get 21 the PSE IRR and the controlled drug IRR 22 inserted into our DEA standard operating 23 procedure under suspicious order 24 monitoring? We promised this to the DEA</p>
<p style="text-align: right;">Page 299</p> <p>1 BY MR. KENNEDY: 2 Q. Oh, it wasn't among the 3 findings? Because we're going to look at 4 what you folks did. 5 Let's go back a second. Do 6 you remember telling us here today, under 7 oath, on behalf of CVS, that you were 8 unaware of whether or not the DEA 9 required standard operating procedures 10 for suspicious order monitoring to be in 11 writing? You said you weren't aware of 12 that, do you remember telling us that? 13 MR. DELINSKY: Object to 14 form. There was no testimony to 15 that effect. 16 BY MR. KENNEDY: 17 Q. Do you remember telling us 18 that? 19 A. No, I don't. 20 Q. You don't? 21 A. What I remember telling you 22 was that I am unaware of any specific DEA 23 regulation that requires CVS to have a 24 written policy with respect to its</p>	<p style="text-align: right;">Page 301</p> <p>1 by Wednesday. 2 Did I read that correctly? 3 A. You did. Although you 4 mentioned that this was while the audit 5 was going on. 6 This e-mail was sent on 7 August 23rd. The notes of the inspection 8 say that the inspection began on August 9 24th. 10 So I don't know that this 11 was while the audit was underway at the 12 Indianapolis distribution center. 13 Q. At some point, at least 14 maybe this day or the day before, or 15 whatever, the DEA requested and they 16 promised to provide it by Wednesday; is 17 that what it says? 18 A. My understanding of the way 19 that a DEA audit would work is that they 20 wouldn't request information in advance, 21 they would show up, essentially 22 unannounced, and they would request 23 documents on site. 24 So if this inspection began</p>

Page 302	Page 304
<p>1 on 8/24, the 8/23 e-mail would have 2 preceded the DEA being on site, and 3 presumably, the DEA requesting that 4 information. 5 I have no knowledge -- I 6 have no corporate knowledge -- 7 Q. This says -- 8 A. -- that Mr. Devlin's e-mail 9 was sent in response to a request from 10 the DEA in connection with its inspection 11 of the Indianapolis distribution center. 12 Q. Is it your testimony that 13 just by pure coincidence they promised to 14 give the DEA the suspicious order 15 monitoring section in the SOPs by 16 Wednesday? That has nothing to do with 17 the audit; is that your testimony? 18 You think this was a 19 coincidence on that date? 20 MR. DELINSKY: Object to 21 form. 22 THE WITNESS: I don't have 23 corporate knowledge that it was 24 associated with the audit.</p>	<p>1 what it states? 2 MR. DELINSKY: Object to 3 form. 4 THE WITNESS: That appears 5 to be what Mr. Mortelliti is 6 suggesting in this e-mail. I 7 don't have further corporate 8 knowledge as to that. 9 BY MR. KENNEDY: 10 Q. Okay. And if you'll give me 11 Exhibit-9. 12 - - - 13 (Whereupon, CVS-Vernazza 14 Exhibit-9, 15 CVS-MDLT1-000088956-9025, was 16 marked for identification.) 17 - - - 18 BY MR. KENNEDY: 19 Q. So things must have moved 20 pretty fast, right? Because a few days 21 later Amy Propatier is sending an e-mail 22 to Annette Lamoureux dated 8/26/2010. 23 She is attaching the DEA 24 suspicious -- excuse me, standard</p>
Page 303	Page 305
<p>1 BY MR. KENNEDY: 2 Q. All right. Let's look up 3 Mr. Mortelliti. He gets back to Mr. 4 Devlin, copies Amy Propatier on the same 5 date. 6 And he says, Good morning, 7 Amy. I attached the PSE -- and PSE, 8 that's separate from controlled substance 9 that we're talking about, correct? 10 A. Yes. 11 Q. Okay. I've attached the PSE 12 SOP in this e-mail. The controlled drug 13 SOP is being reviewed by counsel. I hope 14 to receive it back. I will forward as 15 soon as I get the information that the 16 draft is acceptable. 17 So at this point in time, 18 they're dealing with a draft of the 19 policy and it hasn't yet been approved by 20 counsel, correct? 21 MR. DELINSKY: Object to 22 form. 23 BY MR. KENNEDY: 24 Q. Is that true, sir? Is that</p>	<p>1 operating procedure, dated 8/25/10; is 2 that true? 3 MR. DELINSKY: Object to 4 form. 5 BY MR. KENNEDY: 6 Q. Do you see those dates? Are 7 those dates correct? 8 A. The date of the e-mail -- 9 Q. Yes. 10 A. -- is 8/26/10. 11 Q. And she states, Can you 12 please post? We added the suspicious 13 order monitoring. 14 Do you see that, sir? 15 A. I see that in the e-mail. 16 Q. And this is the first time 17 that the suspicious order monitoring 18 procedures have been added to the 19 standard operating procedures at CVS, 20 August of 2010, true? 21 A. Sorry, I'm just going to 22 take a moment to review this. 23 Q. We're going to go through 24 it, sir, in detail.</p>

<p style="text-align: right;">Page 306</p> <p>1 A. To the best of my corporate 2 knowledge at this point in time, it is 3 consistent that this document reflects 4 the first revision to the prior draft 5 that we were looking at before. 6 I do not know whether or not 7 it was done in connection with the DEA 8 inspection. 9 Q. You think it's a 10 coincidence? You think this is a 11 coincidence that the DEA comes to inspect 12 and within a day of the four-day 13 inspection in Indianapolis and 14 inspections at others, they are providing 15 this? You think that -- very simple, you 16 think it's a coincidence? 17 A. In the scope of my 18 preparation for this deposition, I did 19 not acquire corporate knowledge on this. 20 However, I do look at the 21 e-mail from Mr. Devlin on the 23rd and 22 see that it's prior to the date of the 23 inspection occurring. And, indeed, Mr. 24 Mortelliti's e-mail to Mr. Devlin and Ms.</p>	<p style="text-align: right;">Page 308</p> <p>1 - - - 2 (Whereupon, CVS-Vernazza 3 Exhibit-30, 4 CVS-MDLT1-000057751-754, was 5 marked for identification.) 6 - - - 7 BY MR. KENNEDY: 8 Q. This idea that you don't 9 understand this is related to the DEA, 10 who was there for four days within a day 11 of this, let's look at -- look at 12 Exhibit-30. 13 This is Mr. Mortelliti 14 again. He's writing to Greg Brantley. 15 Do you know who he is? 16 A. I don't. 17 Q. Copying Mr. Devlin, who is 18 involved with these procedures, correct? 19 A. He would have been. 20 Q. And sent 8/25/2010, subject, 21 Drug control -- or excuse me, controlled 22 drug IRR SOP, correct? And that's 23 suspicious order monitoring, true? Is 24 that true?</p>
<p style="text-align: right;">Page 307</p> <p>1 Propatier, again, is on the 23rd, which 2 is before the inspection. 3 So speaking in my personal 4 capacity, it would seem somewhat 5 illogical that the inspection that 6 occurred after this date could have 7 prompted this e-mail. But, again, I 8 don't have corporate knowledge on that. 9 I will say, we do have, 10 certainly, more than one distribution 11 center. And all of our distribution 12 centers are subject to inspections by the 13 DEA. 14 Q. And there was more than one 15 being inspected at this time; is that 16 right? 17 A. I did not undertake to 18 determine that. I focused on the 19 Indianapolis distribution center in my 20 preparation for this deposition. 21 Q. Look at Exhibit-- 22 A. I can't say whether -- it 23 could or could not have. 24 Q. Look at Exhibit-30.</p>	<p style="text-align: right;">Page 309</p> <p>1 A. The IRR was a report that 2 was generated in connection with our 3 suspicious order monitoring process 4 during that time. 5 Q. And the attachment -- this 6 says, Importance, high, right? It says 7 it's high importance? 8 A. Yes. 9 Q. The audit is going on with 10 the DEA at this point, right, 8/25/2010, 11 true? 12 A. That is correct, according 13 to the notes from Mr. Dugger that you 14 showed me in Exhibit-32. 15 Q. This says, Attachments, 16 controlled drug IRR draft 3.doc. 17 Do you see that? 18 A. I do. 19 Q. And he says, Greg, this 20 needs to be implemented ASAP. 21 What's the big hurry on this 22 date if it isn't the DEA, sir? 23 MR. DELINSKY: Object to 24 form. Mischaracterizes.</p>

Page 310

1 BY MR. KENNEDY:
2 Q. What's the big hurry?
3 This is -- you've been
4 drafting this since 2007. It's now 2010.
5 The DEA is there. They incorporate this
6 into the SOPs for the first time, and
7 he's sending it out saying, you need to
8 implement this ASAP.
9 Explain to me, what's the
10 hurry?
11 MR. DELINSKY: Object to
12 form.
13 THE WITNESS: I don't have
14 corporate knowledge that would
15 answer that question.
16 BY MR. KENNEDY:
17 Q. Let's read on.
18 He says, Read it over and
19 give me a call if you have any questions.
20 I have found it to be much easier than
21 the PSE because you actually have items
22 and NDC numbers to track. It is also
23 based on six months.
24 Do you get the idea from

Page 311

1 this that Gregory Brantley has no idea
2 what's in these suspicious order
3 monitoring procedures? He's saying, look
4 it over.
5 A. I do know, based on my
6 preparation for this deposition, that
7 there was a period of time during the
8 fall of 2010 when Mr. Mortelliti, who
9 had -- prior to this time, had primary
10 responsibility for review of the IRR,
11 involved personnel at individual
12 distribution centers to some degree in
13 that process.
14 I don't have, and I don't
15 believe the company, at this point, has
16 clear corporate knowledge as to exactly
17 how that set of responsibilities was
18 apportioned during that time.
19 But I do believe that this
20 is around a period of time when Mr.
21 Mortelliti may have been involving more
22 of the individual personnel at the -- at
23 each specific distribution center.
24 Q. Sir, I'm not quite sure what

Page 312

1 you're talking about. I'm going to be --
2 I just want to talk about this document.
3 At this point in time, Mr.
4 Mortelliti is writing this gentleman
5 telling him to implement these policies
6 on suspicious order monitoring ASAP. And
7 he's saying, if you have any questions,
8 call me.
9 Because this gentleman has
10 no idea what these policies are; isn't
11 that the logical interpretation of this
12 e-mail?
13 MR. DELINSKY: Object to
14 form.
15 BY MR. KENNEDY:
16 Q. Right?
17 MR. DELINSKY: Object.
18 Asked and answered.
19 THE WITNESS: No, I don't
20 know that that's the case.
21 As I was saying, Mr.
22 Mortelliti was located in the
23 Lumberton, New Jersey distribution
24 center. And for a period after

Page 313

1 implementation of the Buzzeo
2 algorithms that generated the IRR
3 report, Mr. Mortelliti was the
4 primary individual responsible for
5 review of those reports in the
6 first instance, as assisted by
7 other resources.
8 To the best of our corporate
9 knowledge, there was a period of
10 time, during the fall of 2010,
11 when additional resources were
12 consulted in individual
13 distribution centers.
14 MR. KENNEDY: I'm going to
15 move to strike.
16 BY MR. KENNEDY:
17 Q. Let me ask you, sir --
18 MR. DELINSKY: No. You can
19 complete your answer.
20 The motion to strike is
21 pending.
22 THE WITNESS: Exactly what
23 that looked like at that time is
24 not something on which we have

<p style="text-align: right;">Page 314</p> <p>1 clear corporate knowledge, at this 2 point in time, other than to know 3 that there were -- I have seen 4 documents signed by individuals in 5 distribution -- in the 6 Indianapolis distribution center, 7 for instance, that indicate that 8 the IRR may have been reviewed at 9 the distribution center level at 10 that point in time. 11 BY MR. KENNEDY: 12 Q. I'm talking about this 13 document, 8/25/2010. 14 Would you agree with me, he 15 tells Mr. Devlin -- do you agree with me, 16 he tells Mr. Devlin that he needs to 17 implement these policies ASAP because the 18 DEA is still there investigating? Isn't 19 that why he said "ASAP"? Isn't that 20 true, sir? 21 MR. DELINSKY: Object to 22 form. 23 BY MR. KENNEDY: 24 Q. Is that true?</p>	<p style="text-align: right;">Page 316</p> <p>1 every answer to waste time. And 2 you're wasting time. This is 3 ridiculous. 4 Let's move on. 5 MR. DELINSKY: Counsel, 6 you're the one wasting time. He 7 has answered your question -- 8 MR. KENNEDY: He hasn't 9 answered a question all day. 10 MR. DELINSKY: And it 11 doesn't mean -- and just because 12 you don't like his answers doesn't 13 mean he hasn't answered. He's 14 answered. 15 MR. KENNEDY: He is looping 16 back to the speeches you want to 17 give him. And this is the problem 18 with the 30(b)(6) in this 19 litigation, and you are 20 perpetuating the problem. 21 Let's move on. 22 MR. DELINSKY: You're wrong. 23 And I object to what you're 24 saying.</p>
<p style="text-align: right;">Page 315</p> <p>1 MR. DELINSKY: Objection, 2 asked and answered. Objection, it 3 misstates the document. 4 I would also note, counsel, 5 that you put -- immediately prior 6 to showing the witness this 7 exhibit, you put before him 8 Exhibit-9, which bears, I believe, 9 the date immediately after this 10 e-mail, which explains the very 11 process that the witness has been 12 explaining. But you did not ask 13 him questions about it. 14 MR. KENNEDY: This is so 15 inappropriate of you to be giving 16 this speech at this point in time. 17 The protocol says you're allowed 18 to object, period. 19 This is ridiculous. It's 20 ridiculous. Stop. We have a 21 limited amount of time, and you 22 know it. And he has been coached 23 to give speeches. He has been 24 coached to repeat my question in</p>	<p style="text-align: right;">Page 317</p> <p>1 MR. KENNEDY: Let's move on. 2 Exhibit-31, please. 3 - - - 4 (Whereupon, CVS-Vernazza 5 Exhibit-31, 6 CVS-MDLT1-000075299-312, was 7 marked for identification.) 8 - - - 9 MR. DELINSKY: I would also 10 take this opportunity to move to 11 strike the many questions you have 12 put to the witness today that were 13 in plain violation of Special 14 Master Cohen's rulings limiting 15 the scope of this deposition. 16 BY MR. KENNEDY: 17 Q. Before you, I believe, is 18 Exhibit-41. Let's start at the bottom so 19 we can go in chronological order of these 20 e-mails. 21 This is dated -- the first 22 e-mail is from Mr. Mortelliti, correct? 23 The one on the bottom dated September 1, 24 2010, 10:46 a.m., true?</p>

<p style="text-align: right;">Page 318</p> <p>1 A. I believe that's correct, 2 yes. 3 Q. And he's sending it out to 4 Dugger and Humphries, true? 5 A. That's correct. 6 Q. And the subject is, DEA 7 speaking points. 8 Do you see that? 9 A. I do. 10 Q. The DEA is still 11 inspecting -- according to the e-mail 12 memo we saw, they were still inspecting 13 on 9/1/2010, true? 14 A. According to the memo in 15 Exhibit-32, the DEA was on site in the 16 Indianapolis distribution center on 17 September 1st, yes. 18 Q. This says, Terrence, this is 19 for the DEA. The corrections listed 20 below have been updated. It is okay to 21 review this with the agents. 22 And he's talking about DEA 23 agents, is he not? 24 A. I don't know exactly what</p>	<p style="text-align: right;">Page 320</p> <p>1 monitoring. 2 He states next, It is okay 3 to share this document. 4 Look at what he says next to 5 these CVS folks that are going to be 6 interacting with the DEA. He says next, 7 Please be sure your team understands it. 8 It is -- understands it before 9 presenting. 10 He's telling them that 11 because they don't know anything about 12 your suspicious order monitoring policies 13 at this point, correct? He's saying, 14 read it and understand it before you 15 present it; isn't that what he says? 16 MR. DELINSKY: Object to 17 form. 18 BY MR. KENNEDY: 19 Q. Sir, is that what he says? 20 A. Could you repeat your 21 question? 22 Q. Does he say, Please be sure 23 your team understands it before 24 presenting?</p>
<p style="text-align: right;">Page 319</p> <p>1 Mr. Mortelliti meant when he wrote this 2 e-mail. Although, that's a sensible 3 reading of the e-mail. 4 Q. He is -- Mr. Mortelliti is 5 telling these two gentlemen about a 6 PowerPoint, about speaking points to the 7 DEA with respect to the suspicious order 8 monitoring procedures, is he not? 9 A. This appears to address 10 speaking points that were put together. 11 And Mr. Mortelliti indicates they would 12 be speaking points in the second e-mail 13 for DEA agents if they come to your 14 facilities. 15 Q. Sir, let's go to the second 16 e-mail up above. 17 Mr. Mortelliti, John. This 18 is seven minutes later, September 1, 19 2010. Now it's to a larger group at CVS. 20 Subject, DEA speaking 21 points. Importance, high. Team, these 22 are the final approved speaking points 23 for the DEA agents if they come to one of 24 your facilities and question suspicious</p>	<p style="text-align: right;">Page 321</p> <p>1 And he's talking about the 2 PowerPoint on suspicious monitoring, 3 true? 4 MR. DELINSKY: Object to 5 form. 6 BY MR. KENNEDY: 7 Q. Is that true? 8 A. I don't know exactly what 9 Mr. Mortelliti is referring to. He seems 10 to be referring to, in this e-mail, the 11 PowerPoint that he was attaching. 12 Q. All right. He goes on. 13 So he says, Please be sure 14 your team understands it before 15 presenting so it doesn't look like a prop 16 instead of a tool. 17 Is that what he says? 18 A. He does. 19 Q. He wants to make sure the 20 suspicious order monitoring policies look 21 like a tool instead of a prop in the eyes 22 of the DEA, right? 23 MR. DELINSKY: Object to 24 form.</p>

<p style="text-align: right;">Page 322</p> <p>1 BY MR. KENNEDY:</p> <p>2 Q. Is that what he says?</p> <p>3 MR. DELINSKY: Object to</p> <p>4 form.</p> <p>5 THE WITNESS: I do not have</p> <p>6 corporate knowledge that that's</p> <p>7 what Mr. Mortelliti was saying.</p> <p>8 He says in this e-mail,</p> <p>9 Everyone should understand so it</p> <p>10 doesn't look like a prop instead</p> <p>11 of a tool.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. And a tool is something you</p> <p>14 use, right?</p> <p>15 A. Right.</p> <p>16 Q. And a prop is something</p> <p>17 make-believe on the set of a play, right?</p> <p>18 MR. DELINSKY: Object to</p> <p>19 form.</p> <p>20 BY MR. KENNEDY:</p> <p>21 Q. Is that right, sir?</p> <p>22 A. I don't know that that's the</p> <p>23 way that Mr. Mortelliti was using the</p> <p>24 word there.</p>	<p style="text-align: right;">Page 324</p> <p>1 Q. They've never seen or used</p> <p>2 these policies before; they're not a</p> <p>3 tool, they've never been used, right?</p> <p>4 They've never been used?</p> <p>5 MR. DELINSKY: Object to</p> <p>6 form. Misstates the testimony.</p> <p>7 BY MR. KENNEDY:</p> <p>8 Q. At this point in time,</p> <p>9 sir --</p> <p>10 A. That's actually --</p> <p>11 Q. -- these policies have never</p> <p>12 been used, true?</p> <p>13 A. That's inconsistent with my</p> <p>14 understanding of the process that was in</p> <p>15 place.</p> <p>16 Mr. Mortelliti had been</p> <p>17 reviewing and conducting due diligence on</p> <p>18 potentially suspicious orders at this</p> <p>19 point in time for, as I understand it,</p> <p>20 more than a year.</p> <p>21 If you look at what was</p> <p>22 marked as Exhibit-9 --</p> <p>23 Q. I don't want to go back to</p> <p>24 Exhibit-9. These policies --</p>
<p style="text-align: right;">Page 323</p> <p>1 Q. What do you think? Tool is</p> <p>2 something you use, right?</p> <p>3 A. A tool can be something you</p> <p>4 use.</p> <p>5 Q. And a prop is something</p> <p>6 that's kind of make-believe that's on the</p> <p>7 stage of a play, right? Isn't that a</p> <p>8 common understanding?</p> <p>9 MR. DELINSKY: Object to</p> <p>10 form.</p> <p>11 THE WITNESS: I'm familiar</p> <p>12 with that usage of the word.</p> <p>13 BY MR. KENNEDY:</p> <p>14 Q. And if Mr. Mortelliti wants</p> <p>15 the people at the distribution centers to</p> <p>16 create the impression that these policies</p> <p>17 are actually a tool instead of a prop,</p> <p>18 he's asking these folks to mislead the</p> <p>19 DEA, correct?</p> <p>20 MR. DELINSKY: Object to</p> <p>21 form.</p> <p>22 THE WITNESS: I don't have</p> <p>23 knowledge that that's the case.</p> <p>24 BY MR. KENNEDY:</p>	<p style="text-align: right;">Page 325</p> <p>1 MR. DELINSKY: No. No. Mr.</p> <p>2 Kennedy.</p> <p>3 MR. KENNEDY: He's not</p> <p>4 giving a speech.</p> <p>5 MR. DELINSKY: He's entitled</p> <p>6 to answer the question.</p> <p>7 You can complete your</p> <p>8 answer.</p> <p>9 MR. KENNEDY: I'm going to</p> <p>10 move to strike. This is not my</p> <p>11 question. He's looping back to</p> <p>12 the same speech he's been giving</p> <p>13 all day.</p> <p>14 THE WITNESS: Sir, I need to</p> <p>15 refer to this document in order to</p> <p>16 answer your question, because this</p> <p>17 document speaks to the process of</p> <p>18 reviewing the IRR report, moving,</p> <p>19 in September of 2010, from being</p> <p>20 centrally reviewed in the</p> <p>21 Lumberton distribution center --</p> <p>22 MR. KENNEDY: This is so</p> <p>23 inappropriate.</p> <p>24 THE WITNESS: -- to being</p>

<p style="text-align: right;">Page 326</p> <p>1 reviewed --</p> <p>2 MR. KENNEDY: What document</p> <p>3 are you referring to? It's not</p> <p>4 the subject of my question.</p> <p>5 You're going back to another</p> <p>6 document to give a speech? It's</p> <p>7 not appropriate.</p> <p>8 MR. DELINSKY: Excuse me,</p> <p>9 Mr. Kennedy, please let the</p> <p>10 witness complete his answer.</p> <p>11 This is a question that you</p> <p>12 put before him.</p> <p>13 MR. KENNEDY: I asked him</p> <p>14 whether or not the policies that</p> <p>15 were created and presented on that</p> <p>16 day had ever been used. Not some</p> <p>17 other document.</p> <p>18 MR. DELINSKY: You can</p> <p>19 complete your answer, Mr.</p> <p>20 Vernazza.</p> <p>21 MR. KENNEDY: Not some other</p> <p>22 document, sir.</p> <p>23 THE WITNESS: As I</p> <p>24 understand it, in the document we</p>	<p style="text-align: right;">Page 328</p> <p>1 Mortelliti had been conducting that</p> <p>2 review himself at the Lumberton</p> <p>3 distribution center.</p> <p>4 MR. KENNEDY: We'll move to</p> <p>5 strike.</p> <p>6 BY MR. KENNEDY:</p> <p>7 Q. Let's look -- now, let's</p> <p>8 look at the PowerPoint that was given to</p> <p>9 the folks at the distribution center for</p> <p>10 their representations to the DEA. It's</p> <p>11 Exhibit-31.</p> <p>12 It's titled, Suspicious</p> <p>13 Order Monitoring for PSE/Controlled</p> <p>14 Drugs. And it's dated August 27, 2010,</p> <p>15 correct?</p> <p>16 A. Yes. I understand from</p> <p>17 talking to Mr. Mortelliti that this is a</p> <p>18 document that he put together for the</p> <p>19 purposes of training personnel in the</p> <p>20 individual distribution centers to, in</p> <p>21 some capacity, take over some of the</p> <p>22 responsibilities that he had been</p> <p>23 performing at the Lumberton distribution</p> <p>24 center.</p>
<p style="text-align: right;">Page 327</p> <p>1 looked at in Exhibit-9 --</p> <p>2 BY MR. KENNEDY:</p> <p>3 Q. And we're going to go back</p> <p>4 to Exhibit-9. I'm not asking you any</p> <p>5 questions. We are on a different</p> <p>6 exhibit, sir.</p> <p>7 We are on --</p> <p>8 A. It references --</p> <p>9 Q. -- Exhibit-31.</p> <p>10 A. -- review of the IRR report</p> <p>11 being moved from primarily performed out</p> <p>12 of the central location in New Jersey.</p> <p>13 And then it says, During the</p> <p>14 month of September 2010, the report will</p> <p>15 be transitioned to each pharmacy DC and</p> <p>16 the following procedures will apply.</p> <p>17 The procedures that I</p> <p>18 understand Mr. Mortelliti to have sent</p> <p>19 out at the end of August were procedures</p> <p>20 to be followed by the individual</p> <p>21 personnel who were performing those</p> <p>22 reviews in or around that time in the</p> <p>23 individual DCs.</p> <p>24 Prior to that time, Mr.</p>	<p style="text-align: right;">Page 329</p> <p>1 MR. KENNEDY: And I will</p> <p>2 move to strike as nonresponsive.</p> <p>3 THE WITNESS: I believe that</p> <p>4 answers your question.</p> <p>5 BY MR. KENNEDY:</p> <p>6 Q. And this was what was given</p> <p>7 to the CVS employees to make a</p> <p>8 presentation to the DEA in August of</p> <p>9 2010, correct?</p> <p>10 MR. DELINSKY: Object to</p> <p>11 form.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. Is that correct?</p> <p>14 A. I'm not aware that CVS</p> <p>15 employees made a presentation to the DEA</p> <p>16 in or around that time.</p> <p>17 Q. Does the e-mail state, Here</p> <p>18 is the PowerPoint you can use to make</p> <p>19 presentations to the DEA. Make sure it</p> <p>20 doesn't look like a prop but a tool?</p> <p>21 Is that what the e-mail</p> <p>22 states, that this is attached to, sir?</p> <p>23 A. The e-mail does not speak to</p> <p>24 a presentation made to the DEA.</p>

<p style="text-align: right;">Page 330</p> <p>1 Q. Please be sure your team 2 understands it before presenting so it 3 doesn't look like a prop instead of a 4 tool. I included Marvin because the DEA 5 will be there today as well. This is for 6 the DEA, the corrections listed below 7 have been updated. 8 A. I'm sorry -- 9 Q. It's okay to show it to the 10 agents. 11 A. I'm sorry. I do see the 12 word "presenting" there now. 13 I understand, from my 14 discussions with Mr. Mortelliti in 15 preparation for this deposition, that to 16 the best of his recollection, this was 17 put together for the purposes of training 18 distribution center personnel. 19 I do not know the extent to 20 which it was or has been provided to the 21 DEA or whether that was in a presentation 22 style format. 23 Q. Let me ask you, it would be 24 important to be honest with the DEA in</p>	<p style="text-align: right;">Page 332</p> <p>1 saying, and I don't have 2 independent corporate knowledge on 3 this, I can only look at -- 4 BY MR. KENNEDY: 5 Q. I'm not asking -- 6 A. -- this document, what he 7 seems to be saying is he doesn't want the 8 DEA to think it's a prop instead of a 9 tool. 10 Mr. Mortelliti has told me 11 that this was a tool for training the 12 distribution center personnel. 13 Q. And you want to be complete 14 and thorough if you're making a 15 representation to the DEA, don't you? 16 MR. DELINSKY: Object to 17 form. 18 BY MR. KENNEDY: 19 Q. Would that be true, sir? 20 A. My understanding that it's 21 always been CVS's policy and practice to 22 be open and honest with the DEA. 23 Q. Let's look at the second 24 page of this presentation to the DEA,</p>
<p style="text-align: right;">Page 331</p> <p>1 this presentation, wouldn't it? 2 MR. DELINSKY: Object to 3 form. 4 THE WITNESS: Certainly, it 5 would always be CVS's policy and 6 practice to be honest with the 7 DEA. 8 BY MR. KENNEDY: 9 Q. And that would be important, 10 right? 11 MR. DELINSKY: Object to 12 form. 13 BY MR. KENNEDY: 14 Q. Right? 15 A. That would be important. 16 Q. And you don't want to 17 mislead the DEA and make something look 18 like a tool when it's just a prop, right? 19 You don't want to mislead them that way, 20 do you, sir? 21 MR. DELINSKY: Object to 22 form. 23 THE WITNESS: From what I 24 understand Mr. Mortelliti to be</p>	<p style="text-align: right;">Page 333</p> <p>1 301. 2 Look at the third bullet. 3 It says, DC RX. That's somebody at the 4 distribution center, right? 5 A. That's correct. 6 Q. And loss prevention. 7 Who is that? Is that one 8 person? 9 A. No. It would be a 10 reference, to the best of my 11 understanding, to the loss prevention 12 organization within the company. 13 There were loss prevention 14 officers located within the logistics 15 component of the loss prevention 16 organization at the corporate office and 17 at individual distribution centers. I'm 18 unable to tell you which loss prevention 19 that refers to. 20 There were additional loss 21 prevention resources associated with the 22 suspicious order monitoring process, 23 including analysts and field-based loss 24 prevention personnel, that would be</p>

<p style="text-align: right;">Page 334</p> <p>1 consulted from time to time. 2 Q. Let's go to Page 75306, 3 please. 4 This is still part of the 5 representations that are being made to 6 the DEA in this PowerPoint. 7 MR. DELINSKY: Object to 8 form. 9 BY MR. KENNEDY: 10 Q. Do you see where it says, 11 Responsibilities? 12 A. I'm sorry, which page? 13 Q. 5306. 14 Do you see this? 15 A. Yes. I don't know that 16 this -- that this document was provided 17 to the DEA. 18 Q. Well, it was provided to the 19 folks at the distribution centers to do 20 just that, wasn't it? 21 A. From Mr. Mortelliti's 22 e-mail, there is a discussion of 23 providing to the DEA. I don't know 24 whether this document was provided to the</p>	<p style="text-align: right;">Page 336</p> <p>1 signature -- IRR documents from the 2 Indianapolis distribution center that 3 bear the signature of distribution center 4 personnel. 5 Q. Is it your testimony here 6 today that as of 12/27/10, the policies 7 and procedures in place, in place, had 8 the DC RX manager reviewing the IRR daily 9 and determining variances within 10 acceptable ranges? Is that your 11 testimony under oath here today, sir, 12 that that was the policy in place as of 13 12/27/10? 14 MR. DELINSKY: Object to 15 form. 16 THE WITNESS: 12/27/10? 17 BY MR. KENNEDY: 18 Q. That's the date of this 19 PowerPoint that was given to your folks 20 to present to the DEA. 21 A. I don't believe it is. 22 Q. Thank you. 23 A. I don't believe that's the 24 date of the PowerPoint.</p>
<p style="text-align: right;">Page 335</p> <p>1 DEA or not. 2 Q. Responsibilities. This is 3 for the DEA. Responsibilities, DC 4 RX-review the report, IRR, daily and 5 determine whether variances are within 6 acceptable ranges. 7 That wasn't happening yet, 8 was it, sir? That had not been 9 implemented yet, true? 10 MR. DELINSKY: Object to 11 form. Misstates the testimony. 12 BY MR. KENNEDY: 13 Q. Is that true? 14 A. I don't know that to be true 15 as of September 1st. I have seen the 16 policy revision that contemplates that 17 review being done by individual 18 distribution center personnel. 19 I've talked to Mr. 20 Mortelliti in preparation for this 21 deposition, and he recalls that occurring 22 to some degree. I've also reviewed 23 documents from the Indianapolis 24 distribution center, bearing the</p>	<p style="text-align: right;">Page 337</p> <p>1 Q. August 27, 2010. 2 A. You said 12/27. 3 Q. I'm sorry. August 27, 2010. 4 Is it your testimony that as 5 of August 27, 2010, the DC RX managers 6 were reviewing the IRR daily and 7 determining whether variances are within 8 acceptable ranges? Is that your 9 testimony, sir, that that was the policy 10 in place as of that date? 11 A. I understand this document 12 to be a training document and not a 13 policy document. We looked at the policy 14 document that speaks to the process 15 moving to the individual DCs as of 16 September 1st. 17 Q. Sir, this is the -- this 18 isn't a policy or training document. 19 This is the PowerPoint that you're making 20 representations to the DEA. 21 And they're making 22 representations to the DEA about policies 23 and procedures that aren't even in place 24 yet, right?</p>

Page 338

1 MR. DELINSKY: Object to
2 form. Objection, misstates the
3 testimony.
4 BY MR. KENNEDY:
5 Q. Did they tell the DEA, this
6 is what we're going to do in the future,
7 or are they telling the DEA, this is what
8 we're doing now?
9 A. I don't know what was told
10 to the DEA or if this document was
11 provided to the DEA.
12 My understanding of this
13 document was that it was a document that
14 was to be used in training individual
15 distribution center personnel for the
16 period of time when it was contemplated
17 that the daily review of the IRR report
18 would transition from a central location
19 reviewed by Mr. Mortelliti in the
20 Lumberton distribution center to being
21 reviewed by personnel in each individual.
22 Q. Are you denying that this is
23 the document and the PowerPoint that was
24 provided to show to the DEA? Are you

Page 339

1 denying that?
2 MR. DELINSKY: Objection.
3 BY MR. KENNEDY:
4 Q. Are you denying that?
5 MR. DELINSKY: Object to
6 form. Objection, asked and
7 answered on numerous occasions.
8 Objection, misstates -- well,
9 strike that last objection.
10 BY MR. KENNEDY:
11 Q. Are you denying that, sir?
12 A. I don't have corporate
13 knowledge that this document was provided
14 to the DEA.
15 Q. But it was given to the
16 people at the distribution centers so
17 that they could show the DEA; is that
18 true?
19 A. That's what Mr. Mortelliti
20 writes in this e-mail.
21 Q. Correct.
22 A. I don't know that it was
23 provided to the DEA.
24 Q. Okay. If they did, they

Page 340

1 certainly should have been told that
2 under responsibilities these are things
3 that are going to happen in the future,
4 not that are happening now, true? Very
5 simple.
6 MR. DELINSKY: Object to
7 form.
8 BY MR. KENNEDY:
9 Q. This is all what's going to
10 happen in the future; this isn't what's
11 going on currently?
12 A. I don't know what was said
13 to the DEA. I don't have corporate
14 knowledge on that.
15 I note that the document
16 that you're showing me is dated September
17 1st. The policy that we looked at in
18 Exhibit-9 contemplates moving the review
19 of the IRR to individual distribution
20 center personnel starting in September.
21 Q. Correct. And this is dated
22 August 27th, 2010, and can we very simply
23 agree, all of these statements with
24 respect to responsibilities in the DEA

Page 341

1 slide show had not yet occurred --
2 MR. DELINSKY: Object to
3 form.
4 BY MR. KENNEDY:
5 Q. -- true?
6 MR. DELINSKY: Object to
7 form.
8 THE WITNESS: I don't know
9 that they had not yet occurred on
10 that date. That's not something
11 that we have clear corporate
12 knowledge of.
13 I've conducted a number of
14 interviews in order to learn about
15 that period of time.
16 I do note that the e-mail
17 that says it can be shared with
18 the DEA, from Mr. Mortelliti, is
19 dated the 1st of September. The
20 policy that we looked at that says
21 things are going to move -- the
22 review of the IRR was going to
23 move to individual distribution
24 centers --

Page 342

1 BY MR. KENNEDY:
2 Q. Right.
3 A. -- speaks to the -- speaks
4 to the beginning of September.
5 Q. But that doesn't happen at
6 the beginning of September, it happens in
7 late September and October, sir. You
8 know that. You've reviewed this.
9 This DEA PowerPoint is
10 absolutely, positively misleading,
11 because none of this has happened yet.
12 It's not going to happen for
13 another month, right?
14 MR. DELINSKY: Object to the
15 form of the question.
16 BY MR. KENNEDY:
17 Q. Another month.
18 MR. DELINSKY: Object to
19 form. Misstates the testimony.
20 BY MR. KENNEDY:
21 Q. Sir, it doesn't happen for
22 another month.
23 A. I don't know that to be the
24 case.

Page 343

1 Q. Let's look at Exhibit-28 --
2 A. My understanding of this
3 document is that it was a training
4 document.
5 Q. It's being -- it's being
6 designated as the DEA presentation, is it
7 not?
8 MR. DELINSKY: Object to
9 form.
10 BY MR. KENNEDY:
11 Q. Correct?
12 How many times --
13 A. Mr. Mortelliti has an e-mail
14 here. I don't know exactly what Mr.
15 Mortelliti was intending when he wrote
16 this or how the document was used. Other
17 than in the course of my preparation, I
18 understood this to be a training
19 document.
20 Q. Mr. Mortelliti, does he
21 state, These are the final approved
22 speaking points for the DEA agents if
23 they come to your facilities and question
24 the suspicious monitoring? Isn't that

Page 344

1 what he states?
2 A. He does.
3 But I do not have knowledge
4 as to whether or not these were provided
5 to the DEA in connection with this
6 investigation of the Indianapolis
7 distribution center or any other
8 distribution center.
9 I simply don't have
10 knowledge as to whether they were or they
11 were not.
12 Q. You looked at the DEA
13 PowerPoint. Every representation in this
14 DEA PowerPoint talks about a process
15 that's not going to occur for another
16 month, correct? It's not in place.
17 A. I --
18 Q. Isn't that true, sir? It's
19 not going to occur for another month?
20 MR. DELINSKY: This needs to
21 stop. I object to the form of the
22 question. I object to the
23 mischaracterization of the
24 document. I object to the number

Page 345

1 of times the same question has
2 been answered.
3 The witness has testified
4 about what he has to testify --
5 MR. KENNEDY: Object.
6 That's all you're allowed to do.
7 Just object.
8 MR. DELINSKY: This is
9 becoming abusive. It's time to
10 stop. We're taking a break.
11 VIDEO TECHNICIAN: The time
12 is 3:51 p.m. We're going off the
13 record.
14 - - -
15 (Whereupon, a brief recess
16 was taken.)
17 - - -
18 VIDEO TECHNICIAN: The time
19 is 4:10 p.m. And we're back on
20 the record.
21 BY MR. KENNEDY:
22 Q. All right, sir. Let's look
23 to Exhibit-9, if we could, please.
24 Go to the second page of

<p style="text-align: right;">Page 346</p> <p>1 Exhibit-9, please. Tell us what this is. 2 A. It is a document entitled, 3 CVS Distribution Center, Controlled 4 Drug-DEA Standard Operating Procedures 5 Manual. It appears to bear a last 6 revision date of 8/25/10. 7 Q. And so this is what was 8 posted and came into effect on 8/25/10; 9 would that be true? 10 A. I don't know the date on 11 which it was posted. The revision date 12 was dated 8/25. 13 I also see a cover e-mail 14 from Ms. Propatier to Ms. Lamoureux 15 asking for it to be posted. But the date 16 of that is 8/26. 17 Q. These came into effect on 18 8/25/10; would that be true? 19 A. That's the revision date. 20 Q. And would this be the first 21 time that the procedures with respect to 22 suspicious order monitoring were 23 incorporated into the standard operating 24 procedures?</p>	<p style="text-align: right;">Page 348</p> <p>1 process for reviewing suspicious 2 order monitoring -- or, excuse me, 3 the suspicious order monitoring 4 process was in place prior to this 5 document. 6 Based on my corporate 7 understanding -- corporate 8 knowledge, it is my understanding 9 that this document reflects the 10 first time in which the draft 11 component of the written document 12 that speaks to suspicious order 13 monitoring was taken out of draft 14 form. 15 BY MR. KENNEDY: 16 Q. All right. Let me ask you 17 again. I want you to listen to my 18 question very carefully, if you would, 19 please. I'm not asking you what's in 20 place, what isn't in place. 21 I'm very simply asking, the 22 standard operating procedures dated 23 8/25/10, would this be the first time 24 that the standard operating procedures</p>
<p style="text-align: right;">Page 347</p> <p>1 MR. DELINSKY: Object to 2 form. 3 THE WITNESS: As I've 4 mentioned, the process was in 5 place for some period of time 6 prior to this. It is my 7 understanding, to the best of my 8 corporate knowledge, that the 9 document here reflects the first 10 time in which the draft was 11 replaced. 12 MR. KENNEDY: And I'll move 13 to strike. 14 BY MR. KENNEDY: 15 Q. Let me ask you again. 16 August 25, 2010, would this 17 be the first time that the effective, 18 actually-in-place standard operating 19 procedures would have had an operable, in 20 effect, section on suspicious order 21 monitoring? 22 MR. DELINSKY: Object to 23 form. 24 THE WITNESS: As I said, the</p>	<p style="text-align: right;">Page 349</p> <p>1 have in place the suspicious order 2 monitoring procedures that are actually 3 being utilized? 4 MR. DELINSKY: Object to 5 form. 6 THE WITNESS: It was the 7 company's procedure to review the 8 IRR reports prior to this time. 9 This is the first time that the 10 written policy and procedure, to 11 my knowledge, was updated to 12 reflect that process. 13 BY MR. KENNEDY: 14 Q. And let me ask you again. I 15 didn't ask you about the IRR reviews. I 16 didn't ask you what they're actually 17 doing. 18 I very simply asked you, is 19 this the first time that the standard 20 operating procedures incorporated the 21 actual process for suspicious order 22 monitoring? 23 MR. DELINSKY: Object to 24 form. Object, asked and answered.</p>

<p style="text-align: right;">Page 350</p> <p>1 THE WITNESS: Again, there 2 was a process and a procedure -- 3 BY MR. KENNEDY: 4 Q. That's not what I asked you. 5 A. -- in place -- 6 MR. KENNEDY: Let's just 7 stop. Can you have him please 8 answer this question? 9 MR. DELINSKY: Counsel, I 10 believe he's answered the 11 question. 12 MR. KENNEDY: He hasn't. 13 He's telling me about what's in 14 place. I'm asking about what's in 15 the suspicious order monitoring 16 with respect to the SOP. That's 17 all. I don't want the speech 18 about what's already in place. 19 BY MR. KENNEDY: 20 Q. I'm going to ask you about 21 that, trust me. You'll have an 22 opportunity to talk all about that. 23 I just want to know, is this 24 the first time that the standard</p>	<p style="text-align: right;">Page 352</p> <p>1 tell me, what were they doing prior -- 2 prior to actually having a written policy 3 that was in place, the IRR report was 4 being reviewed at some location in 5 central New Jersey, right? 6 A. In Lumberton, New Jersey -- 7 Q. Let's look at the policy 8 themselves. 9 A. -- at the distribution 10 center by -- 11 Q. Let's look at the policies 12 themselves. We're on Exhibit-9. Let's 13 go to Page -- 14 MR. DELINSKY: Mr. Kennedy, 15 I just ask that you not interrupt 16 the witness when he's providing an 17 answer. 18 If there was anything 19 further to say, you may complete. 20 If there's not, you can wait for 21 another question. 22 THE WITNESS: I can wait 23 until the next question. 24 BY MR. KENNEDY:</p>
<p style="text-align: right;">Page 351</p> <p>1 operating procedures actually incorporate 2 the suspicious order monitoring 3 procedures? Is this the first time? 4 A. To the best of my corporate 5 knowledge, it is the first time that the 6 company's written policies and procedures 7 are taken out of draft form with respect 8 to suspicious order monitoring. 9 However -- 10 Q. Not "however." That's all I 11 asked. 12 A. However -- 13 Q. That is all I asked. 14 A. I'm going to finish my 15 answer. 16 However, there was a process 17 and a procedure in place prior to this 18 document. 19 MR. KENNEDY: We'll move to 20 strike and see if the court will 21 have you answer the question. 22 BY MR. KENNEDY: 23 Q. Prior to this date, were 24 they actually doing anything? Can you</p>	<p style="text-align: right;">Page 353</p> <p>1 Q. Let's go to Page 88996. 2 Do you see prevention and 3 monitoring of controlled drugs, 4 suspicious orders? 5 This first paragraph, is 6 this the first time this has ever 7 appeared in the standard operating 8 procedures? 9 A. To the best of my corporate 10 knowledge, this is the first time that 11 this written language has appeared in the 12 written policies and procedures. 13 Q. Go to the next page, please, 14 97, Paragraph 2 at the top. 15 Is this paragraph at the 16 top, is this paragraph the first time 17 that this has ever appeared in the 18 standard operating procedures? 19 A. To the best of my corporate 20 knowledge, this reflects the first time 21 that this paragraph has been included in 22 written policies and procedures. 23 Q. And Paragraph 2, then, let's 24 go through this.</p>

Page 354

1 It says, Items reviewed.
2 CVS has established controlled drug order
3 thresholds which will flag, on the IRR
4 (item review report), as well as the
5 field loss prevention Novistor (loss
6 prevention software) reports.
7 Do you see that?
8 A. I do.
9 Q. And the IRR report, that is
10 the report that would provide a scoring
11 with respect to an order for a controlled
12 substance, correct?
13 MR. DELINSKY: Object to
14 form.
15 THE WITNESS: The IRR report
16 was generated based on a number of
17 algorithms and would eventually
18 combine some of those factors and
19 attributes to produce a score.
20 That item would then be
21 subject to a manual review,
22 consulting additional resources as
23 appropriate.
24 BY MR. KENNEDY:

Page 355

1 Q. So the IRR report -- that's
2 all I want to talk about at this point,
3 we'll go step by step.
4 The IRR report, then,
5 reflects the evaluation and the scoring
6 of a specific order for a controlled
7 substance, right?
8 MR. DELINSKY: Object to
9 form.
10 THE WITNESS: The IRR report
11 would include specific orders of
12 controlled substances that met the
13 criteria for inclusion on the
14 report.
15 BY MR. KENNEDY:
16 Q. The IRR report, then --
17 again, what makes the IRR report is
18 something that's being flagged; for some
19 reason, it's passed through the
20 algorithms, it appears that this is an
21 order that might potentially be
22 suspicious.
23 So now it appears in the IRR
24 report, correct?

Page 356

1 A. Based on my understanding,
2 that sounds consistent with my
3 understanding.
4 Q. And the IRR algorithms -- if
5 you look at the next sentence, it says,
6 These thresholds are the primary tool to
7 prevent stores from purchasing excessive
8 or potentially suspicious controlled drug
9 orders.
10 Do you see that sentence?
11 A. I see that sentence.
12 Q. Is that accurate?
13 A. The IRR report was the first
14 step in the process of the distribution
15 center side of the CVS business
16 identifying particular orders for further
17 evaluation.
18 Q. Listen very carefully.
19 This states, These
20 thresholds -- and that's referring to the
21 IRR report, correct?
22 A. I believe it is.
23 Q. It states, These thresholds
24 are the primary tool to prevent stores

Page 357

1 from purchasing excessive or potentially
2 suspicious controlled drug orders.
3 Is that an accurate
4 statement in CVS's suspicious order
5 monitoring policies as printed here? Is
6 that accurate?
7 A. You read it accurately.
8 Q. And do you agree with that
9 statement, on behalf of CVS?
10 A. Based on my preparation for
11 this deposition and the interviews that I
12 have conducted and my corporate
13 knowledge, the IRR report was the report
14 that would flag orders for additional
15 review. And within the logistics
16 function within CVS would be the primary
17 way in which those orders would be
18 elevated for review.
19 The system that we talked
20 about, about the pickers and the packers
21 being aware of potentially unusual
22 orders, also stayed in place.
23 And there were additional
24 resources available to the reviewers of

Page 358

1 the IRR report in order to make
2 assessments about those orders.
3 MR. KENNEDY: I move to
4 strike.
5 BY MR. KENNEDY:
6 Q. Let me ask you again.
7 On behalf of CVS, do you
8 agree with the statement, These
9 thresholds are the primary tool to
10 prevent stores from purchasing excessive
11 or potentially suspicious controlled drug
12 orders?
13 Do you agree with that
14 statement on behalf of CVS?
15 MR. DELINSKY: Objection.
16 Asked and answered.
17 BY MR. KENNEDY:
18 Q. Yes or no, do you agree with
19 it? And if you can't answer yes or no,
20 just let me know.
21 Do you agree with that
22 statement that, as printed in CVS's
23 standard operating procedures, do you
24 agree with that statement; yes or no?

Page 359

1 MR. DELINSKY: Objection,
2 asked and answered.
3 BY MR. KENNEDY:
4 Q. And if you can't answer it
5 yes or no, let me know, and I'll move on.
6 A. I don't know exactly what
7 the drafter of the statement was
8 attempting to express there.
9 What I'm saying to you is
10 the IRR report was used by distribution
11 center personnel, or those acting on
12 behalf of distribution center personnel,
13 to flag orders that would be further
14 reviewed in order to determine whether or
15 not those orders were suspicious.
16 It's not the only --
17 Q. If it doesn't get flagged --
18 A. It's not the only
19 anti-diversion tool within CVS.
20 MR. KENNEDY: I'll move to
21 strike, please.
22 BY MR. KENNEDY:
23 Q. Can you answer my -- just
24 let me know whether you can answer this

Page 360

1 question yes or no, answer yes or no, or
2 tell me you can't, please. All right?
3 The standard operating
4 procedures at CVS state, These thresholds
5 are the primary tool to prevent stores
6 from purchasing excessive or potentially
7 suspicious controlled drug orders.
8 Can you answer that question
9 yes or no, sir?
10 MR. DELINSKY: Object to
11 form.
12 BY MR. KENNEDY:
13 Q. I just -- can you answer
14 that question yes or no?
15 MR. DELINSKY: Objection to
16 form. Objection, asked and
17 answered.
18 THE WITNESS: There are a
19 number --
20 BY MR. KENNEDY:
21 Q. No. I just want to know,
22 can you answer my question yes or no?
23 MR. DELINSKY: Objection to
24 form.

Page 361

1 THE WITNESS: In the way
2 that you've posed it and without
3 allowing me to explain the answer,
4 I don't believe I can simply
5 answer that question yes or no.
6 BY MR. KENNEDY:
7 Q. Fine. Then I will move on.
8 If we go to the item review
9 report, Paragraph 4. It states,
10 Currently, the item review report (IRR)
11 for controlled drugs is being reviewed at
12 a central location in New Jersey.
13 Is that what it states?
14 A. It does.
15 Q. Where in New Jersey?
16 A. My understanding is the
17 Lumberton, New Jersey distribution center
18 where Mr. Mortelliti was based.
19 Q. And why doesn't it say
20 Lumberton distribution center, just
21 central location in New Jersey? Was that
22 a secret? Or why don't they say it's at
23 the distribution center?
24 A. I don't know why that

Page 362

1 language was not used. I have no reason
 2 to believe it was a secret.
 3 Q. What does it mean -- what
 4 does the statement mean that the IRRs
 5 were being reviewed at a location in
 6 Central New Jersey? What does that mean?
 7 A. Mr. Mortelliti, at that
 8 time, had primary responsibility for
 9 reviewing the items on the IRR and
 10 conducting further due diligence on those
 11 items to determine whether or not they
 12 should be regarded as suspicious.
 13 Q. Okay. Now, Mr. Mortelliti,
 14 was he reviewing all of the IRRs for the
 15 entire country up until probably what's
 16 going to be October of 2010? Was he
 17 reviewing all of them in the country, all
 18 IRR flagged orders?
 19 MR. DELINSKY: Object to
 20 form.
 21 THE WITNESS: There was a
 22 period of time when Mr. Mortelliti
 23 would review the IRR report, that,
 24 to my understanding, included

Page 363

1 orders that met the criteria for
 2 inclusion on the IRR, orders
 3 placed from any store, any CVS
 4 store in the country, yes.
 5 BY MR. KENNEDY:
 6 Q. What period of time was Mr.
 7 Mortelliti reviewing all of the IRR
 8 flagged orders for the entire country?
 9 For what period of time?
 10 A. The period of time when Mr.
 11 Mortelliti had primary responsibility for
 12 reviewing the IRR report, to my
 13 understanding, began at some point in the
 14 first half of 2009 and continued through
 15 approximately the fall of 2010, when Mr.
 16 Mortelliti began to potentially involve
 17 others at each individual distribution
 18 center.
 19 Q. From mid '09 to the fall of
 20 2010, was he reviewing them all by
 21 himself for the country, all flagged
 22 orders?
 23 MR. DELINSKY: Object to
 24 form.

Page 364

1 THE WITNESS: My
 2 understanding is that Mr.
 3 Mortelliti would have primary
 4 responsibility for the first-line
 5 review.
 6 However, there were a number
 7 of resources that were available
 8 to assist Mr. Mortelliti,
 9 including other loss prevention
 10 personnel in the field, including,
 11 to the best of my corporate
 12 knowledge, analysts within the
 13 loss prevention organization, as
 14 well as personnel within CVS
 15 stores, should Mr. Mortelliti
 16 reach out to consult with them.
 17 BY MR. KENNEDY:
 18 Q. Let's start with the first
 19 line of review. You said primary
 20 responsibility. My question is
 21 different.
 22 The first review of the IRR
 23 report, for the entire country, for all
 24 orders flagged for the entire country,

Page 365

1 was anyone helping Mr. Mortelliti, during
 2 this period of time, with the review of
 3 the IRR, or was he doing it all himself?
 4 MR. DELINSKY: Object to
 5 form.
 6 THE WITNESS: At this point
 7 in time, to the best of my
 8 corporate knowledge, Mr.
 9 Mortelliti was taking the first
 10 pass through the IRR himself. And
 11 he would reach out for additional
 12 resources to help him conduct his
 13 due diligence as appropriate.
 14 BY MR. KENNEDY:
 15 Q. All right. And so tell me
 16 the names of the people that were
 17 assisting Mr. Mortelliti from this period
 18 of mid '09 to the fall of 2010.
 19 A. Well, Mr. Mortelliti would
 20 have had available to him data systems --
 21 Q. No. I asked you the names.
 22 Give me the names of the
 23 people and their titles that were
 24 assisting him in the due diligence after

<p style="text-align: right;">Page 366</p> <p>1 he took the first review of the IRR. 2 A. I know that Mr. Mortelliti 3 would frequently reach out and talk to 4 stores with respect to particular orders. 5 Q. No. No. I'm not asking 6 that. 7 I'm asking, give me the 8 names of the people and their title of 9 the people that were assisting him in the 10 due diligence review after he took the 11 first review of the IRR. Give me the 12 names and the titles of the people. 13 MR. DELINSKY: Object to 14 form. 15 THE WITNESS: To the best of 16 my corporate knowledge, at this 17 point in time, I believe he was 18 assisted by field VIPER analysts. 19 BY MR. KENNEDY: 20 Q. Give me the name and the 21 title of the people that were assisting 22 him with the due diligence, please. 23 MR. DELINSKY: Object to 24 form.</p>	<p style="text-align: right;">Page 368</p> <p>1 helped him during this period of '09 to 2 '10, correct? 3 A. Into 2010, yes. 4 Q. Can you give us the name and 5 the title of any person that you know, 6 that you actually know assisted Mr. 7 Mortelliti during this period of '09 into 8 '10? 9 A. In the first-pass review, 10 I'm unable to provide additional names of 11 folks who helped Mr. Mortelliti during 12 the period of time when he had primary 13 responsibility for the review of that 14 report. 15 Q. The review, the due 16 diligence, the investigation after the 17 first pass, can you give us the name and 18 title of any people that you know were 19 assisting him in '09 and '10? 20 A. I don't believe, based on my 21 preparation for this deposition, I can 22 provide you with specific names. 23 Q. And what did you do to find 24 the specific names and identify people</p>
<p style="text-align: right;">Page 367</p> <p>1 THE WITNESS: I spoke to one 2 field VIPER analyst, it's a 3 position that no longer exists at 4 CVS, who had recollection of being 5 responsible for assisting with the 6 IRR review process. 7 I do not recall, at this 8 point in time, the specific dates 9 when she would have been involved 10 in that process. So I cannot 11 state with certainty that she 12 would have been involved in 13 helping Mr. Mortelliti during that 14 period of time. 15 BY MR. KENNEDY: 16 Q. And what is that person's 17 name? 18 A. It's -- she goes by Cricket 19 Osmond. 20 Q. And she was a field VIPER 21 analyst? 22 A. That's correct. 23 Q. And you aren't certain 24 whether she helped him, but possibly</p>	<p style="text-align: right;">Page 369</p> <p>1 that were assisting him with the due 2 diligence during this period of time? 3 A. I had a few conversations 4 with Mr. Mortelliti. I did not 5 specifically ask him to name other 6 individuals who he might have consulted 7 with in the field, to the best of my 8 recollection. 9 Q. Can you -- 10 A. Other than by -- other than 11 by role. 12 Q. This -- these people that 13 you can't identify that were assisting 14 Mr. Mortelliti, can you tell me 15 specifically what they were doing with 16 respect to the due diligence follow-up of 17 the IRR flagged orders? Specifically, 18 what did they do for him during this 19 period of '09 into '10? 20 MR. DELINSKY: Object to 21 form. 22 THE WITNESS: I can't tell 23 you what each individual would 24 have done to assist. My</p>

Page 370

1 understanding is -- of the process
 2 is that Mr. Mortelliti would
 3 review the report and conduct
 4 additional due diligence on items
 5 that flagged on the report as he
 6 deemed appropriate. Whether that
 7 was consulting with loss
 8 prevention personnel, whether that
 9 was consulting with store
 10 personnel or whether that was
 11 consulting additional data
 12 resources, I understand that those
 13 are the types of actions that Mr.
 14 Mortelliti would take in
 15 connection with that review.
 16 BY MR. KENNEDY:
 17 Q. Can you tell me, were there
 18 any policies, procedures that were in
 19 existence that in any way controlled what
 20 Mr. Mortelliti was doing and what anybody
 21 that might have been helping him was
 22 doing with respect to due diligence?
 23 What policies and procedures existed at
 24 that time?

Page 371

1 MR. DELINSKY: Object to
 2 form.
 3 THE WITNESS: I'm not aware
 4 of any written policies and
 5 procedures before the ones we just
 6 looked at.
 7 BY MR. KENNEDY:
 8 Q. Can you tell me unwritten
 9 policies and procedures, what were in
 10 place with respect to the required due
 11 diligence review of a flagged order on
 12 the IRR from '09 to early '10?
 13 MR. DELINSKY: Object to
 14 form.
 15 THE WITNESS: I understand
 16 that Mr. Mortelliti's practice
 17 would have been to review the
 18 report on a daily basis and
 19 determine whether items on the
 20 report warranted further review
 21 and due diligence and conduct that
 22 review and due diligence as he
 23 deemed appropriate.
 24 BY MR. KENNEDY:

Page 372

1 Q. And what was the required
 2 due diligence, from '09 to early '10,
 3 with respect to a flagged order? What
 4 was the required due diligence during
 5 that period of time?
 6 MR. DELINSKY: Object to
 7 form.
 8 THE WITNESS: Mr.
 9 Mortelliti's practice, as I
 10 understand it, would have been to
 11 consult additional data sources.
 12 That may include the VIPER system.
 13 That may include systems that
 14 would reflect store dispensing.
 15 It may involve communications with
 16 pharmacists in stores in order to
 17 gain a level of comfort that the
 18 order was not suspicious.
 19 BY MR. KENNEDY:
 20 Q. Is it your testimony here
 21 today under oath that Mr. Mortelliti was
 22 reviewing dispensing data from pharmacies
 23 in '09 into early '10?
 24 A. To the best of my corporate

Page 373

1 knowledge at this point in time, I
 2 believe he was.
 3 Q. You believe he was.
 4 Was Mr. Mortelliti stopping
 5 orders that were flagged in the IRR prior
 6 to the due diligence in '09 into '10?
 7 A. From what I understand,
 8 based on my discussions with Mr.
 9 Mortelliti, if he had an order that he
 10 was conducting further due diligence on
 11 and had not yet reached a conclusion that
 12 it wasn't suspicious, he would call or
 13 e-mail, typically call, the distribution
 14 center in order to have that order held
 15 while the further due diligence was being
 16 conducted, and after making the
 17 determination that the order was not
 18 suspicious, tell the distribution center
 19 that they could release the order.
 20 Q. In '09 and '10, did Mr.
 21 Mortelliti, or any -- anyone at CVS,
 22 identify, stop and report to the DEA a
 23 suspicious order at any time?
 24 MR. DELINSKY: Objection on

<p style="text-align: right;">Page 374</p> <p>1 the grounds that the question 2 exceeds the scope of the 3 deposition notice and Special 4 Master Cohen's discovery rulings. 5 You can answer with regard 6 to the Track 1 jurisdictions. 7 THE WITNESS: I'm not aware, 8 during that time period, that Mr. 9 Mortelliti identified any orders 10 that were deemed suspicious and 11 reported to the DEA. 12 BY MR. KENNEDY: 13 Q. During this period from mid 14 '09 to probably October of 2010, over a 15 year, can you explain why it is that CVS 16 had no suspicious order monitoring 17 policies or standard operating policies 18 and procedures with respect to what Mr. 19 Mortelliti was doing for over a year? 20 Why is that? 21 A. That's not a point on which 22 I have corporate knowledge. 23 Q. Let me ask you, from this 24 period of '09 into '10, as part of the</p>	<p style="text-align: right;">Page 376</p> <p>1 form. 2 THE WITNESS: I'm not aware 3 of Mr. Mortelliti having knowledge 4 that a pharmacy was ordering 5 excessive drugs with respect to -- 6 excessive controlled drugs with 7 respect to non-controlled drugs. 8 He may have looked at that 9 type of information in the data 10 that was available to him or 11 within the communications that he 12 had. 13 The extent to which he did 14 that, I can't say with certainty, 15 based on the corporate knowledge I 16 have at this point in time. 17 BY MR. KENNEDY: 18 Q. You talked to him how many 19 times? 20 A. More than once. 21 Q. Twice? Three times? 22 A. Yeah, I can't remember if 23 it's twice, three times, or even more. 24 But a couple of times, at least.</p>
<p style="text-align: right;">Page 375</p> <p>1 investigation of potentially suspicious 2 orders, let me ask you, was Mr. 3 Mortelliti -- do you have knowledge and 4 evidence that Mr. Mortelliti was 5 determining whether or not the pharmacy 6 was ordering excessive quantities of 7 certain controlled substances in relation 8 to other drugs? Was he doing that? Do 9 you have evidence that he was actually 10 doing that from '09 to '10? 11 MR. DELINSKY: Object to 12 form. 13 THE WITNESS: I'm not sure I 14 understand your question. 15 BY MR. KENNEDY: 16 Q. In the due diligence 17 process, from '09 to '10, was Mr. 18 Mortelliti, or anyone at his request, 19 were they determining whether or not the 20 pharmacy that had been flagged was 21 ordering excessive quantities of 22 controlled substances in relation to 23 other drugs they were ordering? 24 MR. DELINSKY: Object to</p>	<p style="text-align: right;">Page 377</p> <p>1 Q. From '09 into the fall of 2 2010, was Mr. Mortelliti, or anyone at 3 his request, determining whether a CVS 4 Pharmacy was ordering a disproportionate 5 amount of controlled substances in 6 relation to non-controlled substance 7 drugs? 8 MR. DELINSKY: Object to 9 form. 10 THE WITNESS: As I 11 mentioned, Mr. Mortelliti would 12 have access, as I understand it, 13 during that period of time, to 14 data from which he would be able 15 to research that type of question. 16 I do not have corporate 17 knowledge as to the nature and 18 extent to which he undertook that 19 particular exercise in any 20 particular circumstance. 21 BY MR. KENNEDY: 22 Q. Wouldn't that be something 23 that would be important for you to 24 understand here, if you were trying to</p>

Page 378

1 explain the -- what was actually being
2 done by CVS for over a year? Isn't that
3 something that you should have known and
4 researched so that you could come answer
5 those questions?
6 A. I know that Mr. --
7 MR. DELINSKY: Object to
8 form. Object to the extent that
9 it calls for an attorney-client
10 privileged information or work
11 product. And object as outside
12 the scope of the deposition
13 notice.
14 THE WITNESS: I know that
15 Mr. Mortelliti was undertaking
16 investigations with respect --
17 BY MR. KENNEDY:
18 Q. That's not my question.
19 My question is, shouldn't
20 you --
21 MR. DELINSKY: No. No. If
22 you haven't finished, you can
23 finish your answer.
24 THE WITNESS: I know that

Page 379

1 Mr. Mortelliti was undertaking
2 reviews of particular orders to
3 determine whether or not they
4 should be deemed suspicious. And
5 I know that he had data resources
6 and personnel resources available
7 to him.
8 In the course of my
9 conversations with Mr. Mortelliti,
10 I don't recall if I asked him that
11 particular question.
12 BY MR. KENNEDY:
13 Q. From this period of '09 into
14 '10, the fall of '10, was Mr. Mortelliti,
15 or anybody at his direction -- the
16 amount of lifestyle drugs that were being
17 ordered by a CVS Pharmacy during the
18 course of his due diligence?
19 A. When you refer to "lifestyle
20 drugs," what are you referring to?
21 Q. Hydrocodone, oxycodone,
22 Fentanyl, morphine.
23 A. Are you seeing this in a
24 document that I should be looking at?

Page 380

1 Q. Please just answer my
2 question.
3 MR. DELINSKY: Well, I would
4 object. Mr. Kennedy, you're
5 reading from a document and that
6 being the case, we'd ask that you
7 show the witness the document.
8 MR. KENNEDY: Answer my
9 question. I have no obligation to
10 show him what I'm reading from.
11 Answer the question.
12 MR. DELINSKY: So you're
13 refusing to show the witness, just
14 so the record is clear --
15 MR. KENNEDY: Absolutely.
16 Positively.
17 MR. DELINSKY: -- the
18 document on which you're
19 interrogating him.
20 MR. KENNEDY: Absolutely.
21 Absolutely. You are not entitled
22 to my handwritten notes now or at
23 any time during the course of this
24 deposition.

Page 381

1 MR. DELINSKY: We don't want
2 your notes. But to the extent
3 your notes are referring to a
4 document that you're intentionally
5 withholding from the witness while
6 asking him questions --
7 MR. KENNEDY: Every question
8 that I've asked today --
9 MR. DELINSKY: -- that's
10 inappropriate.
11 MR. KENNEDY: -- is in
12 reference to a document that CVS
13 has produced and this witness
14 should have reviewed.
15 BY MR. KENNEDY:
16 Q. Now, answer my question,
17 please, doctor -- not doctor, but sir.
18 MR. DELINSKY: I'll renew my
19 request that you produce the
20 document from which these
21 questions were based.
22 THE WITNESS: I was just
23 asking because we had been looking
24 at the document that you had in

<p style="text-align: right;">Page 382</p> <p>1 front of me, and you were asking 2 questions based on that. 3 BY MR. KENNEDY: 4 Q. Would you please answer my 5 question? I don't have a lot of time 6 here. I don't want to know the 7 explanation for why you're asking me 8 questions. I just need you to answer my 9 question. 10 Let me ask it again. 11 MR. DELINSKY: You can 12 continue, Mr. Vernazza. You have 13 a right not to be interrupted, and 14 you can continue your answer. 15 THE WITNESS: Speaking in my 16 personal capacity, my 17 understanding of the term 18 "lifestyle drugs" typically refers 19 to drugs like Viagra that aren't 20 controlled substances. 21 BY MR. KENNEDY: 22 Q. I defined them for you. 23 Very clearly. 24 Let me ask you this: From</p>	<p style="text-align: right;">Page 384</p> <p>1 answer? 2 A. I don't have corporate 3 knowledge that he did or he did not. 4 Q. From December into the fall 5 of 2010, did Mr. Mortelliti, or anybody 6 at his direction, while doing their due 7 diligence on a flagged order, did they, 8 at any time, review the percentage of the 9 pharmacy's total business related to the 10 dispensing of controlled substances? 11 MR. DELINSKY: Object to 12 form. 13 THE WITNESS: He might have. 14 I don't have corporate knowledge, 15 at this point in time, as to 16 specifically the nature of each 17 inquiry that Mr. Mortelliti 18 undertook while reviewing the IRR 19 reports. 20 BY MR. KENNEDY: 21 Q. And from December of '09 to 22 2010, did Mr. Mortelliti, or anybody at 23 his direction, when conducting due 24 diligence on a flagged order, did they,</p>
<p style="text-align: right;">Page 383</p> <p>1 December into the fall of 2010, did Mr. 2 Mortelliti, at anybody's direction, 3 during the course of his due diligence, 4 did they investigate the amount of 5 OxyContin, Fentanyl, hydrocodone or 6 morphine that was being ordered by a CVS 7 pharmacy? Did they? 8 A. CVS distribution centers did 9 not distribute several of those drugs. 10 Q. Would the answer be no? 11 A. And specifically you 12 mentioned oxycodone and morphine. Those 13 have always been Schedule II drugs and 14 have never been distributed by CVS. 15 You did mention, I believe, 16 hydrocodone, if you mean hydrocodone 17 combination products, those are among the 18 drugs that Mr. Mortelliti would have been 19 reviewing while reviewing the IRR report. 20 Q. So he would -- during the 21 course of his due diligence, would I be 22 correct in saying, then, you have no 23 evidence that he looked into OxyContin or 24 Fentanyl or morphine; is that your</p>	<p style="text-align: right;">Page 385</p> <p>1 at any time, look to whether or not there 2 were any medical practitioners at the 3 pharmacy who were writing a 4 disproportionate share of the controlled 5 substances being filled? 6 MR. DELINSKY: Object to 7 form. 8 THE WITNESS: Based on my 9 discussions with Mr. Mortelliti, I 10 believe that prescribing and, in 11 particular, prescribers were among 12 the factors that he considered in 13 conducting his due diligence, yes. 14 BY MR. KENNEDY: 15 Q. And he would have gotten 16 that off of the dispensing data, is that 17 what you're telling us? 18 A. I believe that's correct. 19 Q. And it's your testimony here 20 today that Mr. Mortelliti and CVS was 21 considering dispensing data in '09 and 22 into '10 when it was doing its due 23 diligence? That's your testimony under 24 oath on behalf of the company today,</p>

Page 386

1 correct?

2 A. My understanding is that Mr.

3 Mortelliti had access to a system known

4 as Micro Strategy that would have

5 contained dispensing data that Mr.

6 Mortelliti could review, as he deemed

7 appropriate, in conducting the reviews.

8 Q. And I know that they had --

9 that he had access to dispensing data.

10 That's not my question.

11 On behalf of CVS today,

12 under oath, is it your position that CVS,

13 when conducting due diligence for flagged

14 orders, as early as mid '09, was looking

15 and considering dispensing data? Is that

16 your testimony here today on behalf of

17 CVS?

18 MR. DELINSKY: Object to

19 form. Objection, asked and

20 answered.

21 THE WITNESS: To the best of

22 my corporate knowledge, at this

23 point in time, based on the

24 preparation I've undertaken for

Page 387

1 this deposition, I understand that

2 Mr. Mortelliti had access to and

3 consulted dispensing data

4 concerning pharmacies.

5 BY MR. KENNEDY:

6 Q. In his due diligence of

7 flagged orders?

8 A. In his due diligence based

9 on flagged orders.

10 Q. Okay.

11 A. Whether that was every order

12 or the orders where Mr. Mortelliti deemed

13 that to be helpful in making his

14 determination, my understanding is that

15 it's more the latter.

16 Q. All right. You would agree

17 with me that it wasn't -- it wasn't until

18 2012 that CVS, as part of their due

19 diligence, on a regular basis required an

20 evaluation of dispensing data? You

21 understand that that didn't occur until

22 2012?

23 A. I'm not sure what you mean

24 by that.

Page 388

1 Q. There was no requirement at

2 CVS, until 2012, that when doing due

3 diligence on a flagged order that

4 dispensing data be reviewed, correct?

5 A. I don't have corporate

6 knowledge that that's true.

7 Q. When did the store metrics

8 report come into existence?

9 A. I am aware of a report known

10 as the store metrics report that I

11 believe was used in 2012.

12 Q. And let me ask you this: Do

13 you know how often -- if it's your

14 testimony that Mr. Mortelliti reviewed

15 and evaluated dispensing data in the due

16 diligence of a flagged order, can you

17 tell me how often he did that in '09

18 leading into '10?

19 A. I cannot.

20 Q. But you believe he did do

21 it?

22 A. Based on my discussions with

23 Mr. Mortelliti, I believe that he did

24 consult dispensing data as part of the

Page 389

1 due diligence process with respect to

2 certain orders.

3 Q. In doing due diligence from

4 '09 to '10, did Mr. Mortelliti, or anyone

5 at his direction, make a determination,

6 during due diligence of a flagged order,

7 as to the amount of cash purchases of

8 controlled substances at the pharmacy?

9 MR. DELINSKY: Object to

10 form.

11 THE WITNESS: I don't recall

12 whether or not Mr. Mortelliti told

13 me that he would look at that

14 specific point, although he may

15 have.

16 BY MR. KENNEDY:

17 Q. Do you have any documents

18 that you have been provided that would

19 support your testimony that Mr.

20 Mortelliti reviewed dispensing data,

21 during the due diligence, on a flagged

22 order in '09 and into '10, any documents

23 that you can point us to that would

24 support that?

Page 390

1 MR. DELINSKY: Object to
 2 form.
 3 THE WITNESS: I don't recall
 4 any such documents. But I
 5 certainly didn't have the ability
 6 to review all the documents that
 7 we produced in this litigation.
 8 BY MR. KENNEDY:
 9 Q. Did anybody point you to
 10 such a document?
 11 A. I don't recall --
 12 MR. DELINSKY: Excuse me.
 13 Object to the form. To the extent
 14 that information calls for
 15 attorney-client communications, I
 16 instruct you not to answer.
 17 THE WITNESS: I don't recall
 18 seeing such a document. Again, I
 19 didn't undertake to review each
 20 and every document that has been
 21 produced in this litigation.
 22 BY MR. KENNEDY:
 23 Q. Let's go to October of 2010.
 24 The new suspicious order

Page 391

1 monitoring policies are implemented in
 2 2010, correct? October of 2010, early
 3 October?
 4 A. The written policies --
 5 Q. Are implemented?
 6 A. -- we looked at earlier, as
 7 I understand.
 8 Q. And that's different than
 9 what Mr. Mortelliti has been doing up
 10 until that point in time, correct?
 11 A. In some regards, but not in
 12 others. There was a process in place
 13 where Mr. Mortelliti was reviewing the
 14 IRR reports.
 15 Q. Right.
 16 A. That process, as reflected
 17 as of October of 2010, as I understand
 18 it, contemplated some different personnel
 19 being involved in that type of review.
 20 Q. The starting point -- I
 21 think you've told us the starting point
 22 of the suspicious order monitoring
 23 procedures is the IRR drug report,
 24 correct?

Page 392

1 MR. DELINSKY: Object to
 2 form.
 3 THE WITNESS: The IRR
 4 contains the drugs that would have
 5 flagged on the algorithms that
 6 were established to identify
 7 potentially suspicious order for
 8 review.
 9 BY MR. KENNEDY:
 10 Q. It was the starting point,
 11 correct?
 12 A. It was the starting point.
 13 Q. It was the starting point.
 14 If you don't get flagged in
 15 the IRR, there's not going to be due
 16 diligence of that order, true?
 17 A. Unless it was an order that
 18 was identified through the warehouse
 19 associates.
 20 Q. Some rare occasion,
 21 something might get flagged for some
 22 other reason.
 23 But if you don't get flagged
 24 in the IRR report, there's not going to

Page 393

1 be due diligence, true?
 2 MR. DELINSKY: Object to
 3 form.
 4 THE WITNESS: I can't say
 5 that that's universally true. But
 6 for the most part, that would be
 7 true.
 8 BY MR. KENNEDY:
 9 Q. The IRR report, how many
 10 algorithms -- in 2010, do you know how
 11 many different algorithms were evaluating
 12 and scoring an order for a hydrocodone
 13 drug?
 14 A. At what period of time are
 15 you saying?
 16 Q. 2010, when this -- when the
 17 written policies go into place.
 18 A. I'm not certain as to the
 19 number of different algorithms that the
 20 Buzzeo system employed.
 21 As we talked about, there
 22 were several different algorithms. My
 23 understanding, it was based on a
 24 progression model, and that it would

Page 394

1 ultimately produce a score. If the score
2 was above a certain threshold, then the
3 item would populate on the IRR.
4 Q. Accuracy and effectiveness
5 of the IRR report would be critical,
6 then, to the identification of suspicious
7 orders, correct? It's the primary way
8 you're doing it?
9 MR. DELINSKY: Object to
10 form.
11 THE WITNESS: The IRR was
12 the system that the company had in
13 place to identify suspicious
14 orders based on an algorithm
15 analysis.
16 BY MR. KENNEDY:
17 Q. Reported, then, in the IRR
18 report?
19 A. Which would then be on the
20 IRR report.
21 Q. And the IRR report is what's
22 being reviewed every day to look for
23 flagged orders so you can start to
24 investigate, correct?

Page 395

1 MR. DELINSKY: Object to
2 form.
3 THE WITNESS: That's my
4 understanding.
5 BY MR. KENNEDY:
6 Q. Just as CVS was implementing
7 these new policies in October of 2010, it
8 discovered a significant problem, did it
9 not, with the IRR report?
10 MR. DELINSKY: Object to
11 form.
12 BY MR. KENNEDY:
13 Q. Right in the beginning.
14 A. October of 2010 was not the
15 beginning, as I understand it.
16 Q. That's the beginning of the
17 written SOPs, correct?
18 A. The written SOPs were
19 updated around that point in time. We
20 looked at those documents earlier.
21 But as I testified, the
22 process, as I understand it, was in place
23 for a significant period of time before
24 that.

Page 396

1 Q. In October of 2010, CVS
2 discovered a significant problem with
3 this all-important IRR report, did it
4 not?
5 MR. DELINSKY: Object to
6 form.
7 THE WITNESS: I don't recall
8 corporate knowledge on that
9 specific point.
10 BY MR. KENNEDY:
11 Q. Is Mr. Mortelliti still in
12 charge of these procedures in October of
13 2010?
14 A. Mr. Mortelliti still had
15 some involvement in the process of
16 reviewing suspicious orders. The extent
17 to which he was involved is something on
18 which we don't have clear corporate
19 knowledge.
20 - - -
21 (Whereupon, CVS-Vernazza,
22 Exhibit-16,
23 CVS-MDLT1-000034175-177, was
24 marked for identification.)

Page 397

1 - - -
2 BY MR. KENNEDY:
3 Q. I'm showing you Exhibit-16.
4 From the metadata, this is October 8,
5 2010.
6 Does the top say, Business
7 idea description?
8 MR. DELINSKY: I object to
9 the use of this document on the
10 ground that it disaggregates the
11 document from its parent e-mail.
12 BY MR. KENNEDY:
13 Q. Does the top say, Business
14 idea description?
15 MR. DELINSKY: Same
16 objection.
17 BY MR. KENNEDY:
18 Q. Sir, did it state that?
19 A. The top of the document
20 states, Business idea description, yes.
21 Q. Have you seen this before?
22 A. I believe I have.
23 Q. All right. This says,
24 Requested for or on behalf of John

Page 398

1 Mortelliti, correct?
2 A. It does.
3 Q. And then under summary
4 description and objectives, it states,
5 DEA expects CVS to prevent suspicious
6 orders from being filled out of our DCs.
7 That's distribution centers,
8 correct?
9 A. I see that.
10 Q. Do you agree with that
11 statement on behalf of CVS? That first
12 statement, DEA expects CVS to prevent
13 suspicious orders from being filled out
14 of our DCs, do you agree with that
15 statement on behalf of CVS?
16 A. I'm aware of the DEA
17 regulation that requires reporting of
18 suspicious orders. I'm also aware of the
19 DEA guidance that suspicious orders not
20 be shipped.
21 Q. Well, let me ask you this:
22 CVS wouldn't write that there unless they
23 believed it, would they?
24 A. I presume Mr. Mortelliti

Page 399

1 wrote this document. He didn't
2 necessarily write it to reflect CVS's
3 corporate position.
4 Q. Well, when you spent, what,
5 two, three times, maybe, talking with
6 him, did he give you any indication that
7 he didn't believe that the DEA expects
8 CVS to prevent suspicious orders from
9 being filled out of our DCs? Did he give
10 you the impression that he didn't believe
11 that to be true?
12 A. No. In fact, as I
13 understand it from Mr. Mortelliti, an
14 order deemed suspicious was not ever
15 shipped from one of our DCs.
16 Q. A responsible man, Mr.
17 Mortelliti, responsible, trusted guy at
18 CVS?
19 MR. DELINSKY: Object to
20 form.
21 BY MR. KENNEDY:
22 Q. Is that the impression you
23 got, that CVS had a lot of respect for
24 him?

Page 400

1 MR. DELINSKY: Object to
2 form.
3 THE WITNESS: Mr. Mortelliti
4 is personnel within our loss
5 prevention department and has had
6 oversight over other loss
7 prevention personnel.
8 BY MR. KENNEDY:
9 Q. Well, look, you talked to 40
10 people at CVS, did you get the impression
11 that Mr. Mortelliti was well respected
12 for the job that he did at CVS?
13 MR. DELINSKY: Object to
14 form.
15 THE WITNESS: I don't have
16 corporate knowledge as to what
17 other individuals thought of Mr.
18 Mortelliti. It's not -- it's not
19 something I undertook to
20 understand in preparation for the
21 deposition.
22 BY MR. KENNEDY:
23 Q. But you did not get an
24 impression, in talking to 40 people,

Page 401

1 about their feelings about Mr.
2 Mortelliti?
3 MR. DELINSKY: Object to
4 form.
5 THE WITNESS: Speaking in my
6 personal capacity, I can't say
7 that I really did.
8 BY MR. KENNEDY:
9 Q. All right. Next stated --
10 next thing stated -- so first states, DEA
11 expects CVS to prevent suspicious orders
12 from being filled out of our DCs.
13 Then it states, The current
14 IRR does not provide the proper
15 information to meet the DEA's needs.
16 Do you see that statement?
17 A. I do.
18 Q. Next it states, We need
19 controlled drugs to be monitored by
20 active ingredient. Currently, the
21 controlled drugs are monitored by item.
22 The IRR loses all order history when the
23 info on the item changes causing CVS to
24 be noncompliant with DEA expectations.

<p style="text-align: right;">Page 402</p> <p>1 Did I read that right?</p> <p>2 A. You read that correctly.</p> <p>3 Q. Does CVS agree with this</p> <p>4 statement of Mr. Mortelliti in October of</p> <p>5 2010? Does CVS agree with that</p> <p>6 statement?</p> <p>7 MR. DELINSKY: Object to</p> <p>8 form.</p> <p>9 THE WITNESS: CVS does not</p> <p>10 agree that it was not compliant</p> <p>11 with DEA expectations.</p> <p>12 BY MR. KENNEDY:</p> <p>13 Q. At this point in time, Mr.</p> <p>14 Mortelliti was working with the</p> <p>15 suspicious order monitoring system and</p> <p>16 the IRRs on a daily basis, was he not?</p> <p>17 We just went through everything he does</p> <p>18 with the IRR.</p> <p>19 A. Yeah, I'm just trying to get</p> <p>20 a sense -- is there a date on the</p> <p>21 document?</p> <p>22 Q. This is 10/8/10. And up</p> <p>23 until this point in time, we've been</p> <p>24 talking for the last 45 minutes, Mr.</p>	<p style="text-align: right;">Page 404</p> <p>1 2010, Mr. Mortelliti was responsible for</p> <p>2 reviewing the IRR report on a daily</p> <p>3 basis.</p> <p>4 Q. And in -- at this point in</p> <p>5 time, in 2010, you were at a law firm,</p> <p>6 you weren't working for CVS, correct?</p> <p>7 A. Correct.</p> <p>8 Q. And so we have Mr.</p> <p>9 Mortelliti, who has been looking at the</p> <p>10 IRRs, being responsible for the IRRs for</p> <p>11 over a year now, and he thinks that CVS</p> <p>12 is noncompliant with DEA expectations.</p> <p>13 And you, who are working at</p> <p>14 a law firm at this time, disagree; is</p> <p>15 that -- is that true?</p> <p>16 MR. DELINSKY: Object to</p> <p>17 form.</p> <p>18 BY MR. KENNEDY:</p> <p>19 Q. Is that true, sir? You are</p> <p>20 disagreeing -- on behalf of CVS, you're</p> <p>21 disagreeing with the man who has been</p> <p>22 reviewing this report every day when, in</p> <p>23 fact, you were working at a law firm at</p> <p>24 this point in time? You disagree?</p>
<p style="text-align: right;">Page 403</p> <p>1 Mortelliti is the one who is reviewing</p> <p>2 the IRRs every day, correct?</p> <p>3 A. I'm sorry, I'm looking for</p> <p>4 the date on the document.</p> <p>5 Q. There's no date. I'm</p> <p>6 telling you to assume that this is</p> <p>7 October 8 of 2010.</p> <p>8 And as of this date, since</p> <p>9 mid '09, Mr. Mortelliti is the one who</p> <p>10 has been reviewing the IRRs on behalf of</p> <p>11 CVS every day; is that true?</p> <p>12 MR. DELINSKY: I object to</p> <p>13 the form of the question. I</p> <p>14 further renew my objection to the</p> <p>15 fact that this document has been</p> <p>16 disaggregated from its parent</p> <p>17 e-mail, which would have supplied</p> <p>18 context and information on date.</p> <p>19 BY MR. KENNEDY:</p> <p>20 Q. Am I right, sir? Can you</p> <p>21 answer my question? Can you answer my</p> <p>22 question?</p> <p>23 A. My understanding is from</p> <p>24 some point in 2009 through some point in</p>	<p style="text-align: right;">Page 405</p> <p>1 MR. DELINSKY: Object to</p> <p>2 form. Object to the use of this</p> <p>3 document in its incomplete form as</p> <p>4 it's currently being used.</p> <p>5 THE WITNESS: I have set</p> <p>6 forth the corporate position of</p> <p>7 CVS with respect to this document,</p> <p>8 which is that CVS does not agree</p> <p>9 that it was not compliant with DEA</p> <p>10 regulations.</p> <p>11 BY MR. KENNEDY:</p> <p>12 Q. And can you tell me what is</p> <p>13 the -- you weren't there, so what is the</p> <p>14 basis for CVS's position that Mr.</p> <p>15 Mortelliti is wrong when he says that CVS</p> <p>16 is noncompliant with DEA expectations in</p> <p>17 October of 2010? What is the basis for</p> <p>18 CVS's disagreement with its employee?</p> <p>19 MR. DELINSKY: Object to</p> <p>20 form. Object to the use of an</p> <p>21 incomplete document.</p> <p>22 THE WITNESS: Based on the</p> <p>23 investigation that I have</p> <p>24 undertaken in preparation for this</p>

Page 406

1 deposition, and based on the
2 systems and the positions of the
3 company, as I understand them, it
4 is CVS's position that CVS was not
5 noncompliant with DEA regulations.
6 I further don't know whether
7 or not Mr. Mortelliti is referring
8 to something that occurred for a
9 very brief period of time or more
10 extended period of time, or what
11 exactly he's referring to or what
12 the basis for his statement is.
13 BY MR. KENNEDY:
14 Q. Well, you don't know whether
15 this is a brief period of time.
16 You know, from your review
17 of the documents, that this problem and
18 this noncompliance continues for at least
19 a year, right? This is -- this is
20 occurring for a year past the date that
21 Mr. Mortelliti declares that CVS is
22 noncompliant, right? This happens --
23 this goes on for another year, does it
24 not, from your understanding?

Page 407

1 A. To my understanding --
2 MR. DELINSKY: Object to
3 form. Object to the use of this
4 document. It's unfair, Mr.
5 Kennedy.
6 BY MR. KENNEDY:
7 Q. This goes on for another
8 year --
9 MR. KENNEDY: You cannot give
10 speeches. You can object and you
11 can instruct him not to answer,
12 but you cannot give speeches.
13 Please, let it stop. We are
14 limited in time. Let us move
15 forward.
16 BY MR. KENNEDY:
17 Q. What is the specific basis
18 for CVS's disagreement with its employee
19 that CVS is noncompliant with DEA
20 expectations as of October of '10? What
21 is your basis?
22 MR. DELINSKY: Object to
23 form. Object to the use of the
24 document.

Page 408

1 THE WITNESS: CVS had a
2 system in place to detect
3 suspicious orders. CVS's position
4 is that that system was compliant
5 with DEA regulations.
6 BY MR. KENNEDY:
7 Q. And let me ask you this: Do
8 you think you know better, in a four-week
9 review, than Mr. Mortelliti back in 2010,
10 who had been reviewing the IRR for a
11 year?
12 MR. DELINSKY: Object to
13 form. Object to the use of the
14 incomplete document.
15 THE WITNESS: Mr. Mortelliti
16 is making statements here that I
17 don't fully understand the basis
18 for and what they're referring to.
19 Mr. Mortelliti is not a
20 lawyer. And it is CVS's position
21 that it had in place a system to
22 detect suspicious orders, and that
23 that system was compliant with DEA
24 regulations.

Page 409

1 BY MR. KENNEDY:
2 Q. When you met with Mr.
3 Mortelliti, or when you talked to him
4 these several, two, three times, let's
5 say, did he tell you, I was wrong, I was
6 wrong when I filled out that business
7 idea description, I was wrong when I
8 filled it out and said that CVS was
9 noncompliant with DEA expectations? Did
10 he tell you he was wrong?
11 MR. DELINSKY: Object to
12 form.
13 THE WITNESS: Mr. Mortelliti
14 and I did not discuss this
15 particular document when I spoke
16 with him. I had not reviewed this
17 document at the time that I had
18 spoken to Mr. Mortelliti.
19 He didn't express to me, in
20 any capacity, that he believed
21 that the CVS system was not
22 compliant for any period of time.
23 BY MR. KENNEDY:
24 Q. After you received this

<p style="text-align: right;">Page 410</p> <p>1 document, didn't you call up Mr. 2 Mortelliti again and say, Mr. Mortelliti, 3 John -- you were probably on a first name 4 basis -- John, what did you mean by this? 5 You're stating, in October of 2010, that 6 CVS is noncompliant with DEA 7 expectations. Didn't you call him up and 8 ask him about this? 9 MR. DELINSKY: Object to 10 form. 11 BY MR. KENNEDY: 12 Q. Did you call him and ask 13 him? 14 MR. DELINSKY: Object. 15 Object to form. Object to the 16 incomplete use of the document. 17 Object to the question to the 18 extent it calls for 19 attorney-client information. 20 To the extent you're able to 21 answer without disclosing 22 attorney-client communication, you 23 may answer. If you can't, you're 24 instructed not to answer.</p>	<p style="text-align: right;">Page 412</p> <p>1 Mortelliti? 2 A. I don't know what Mr. 3 Mortelliti is referring to there. 4 Q. You don't have any idea -- 5 you don't think he means that we can be 6 fined for being noncompliant with DEA 7 expectations because our IRR is losing 8 all order history? You don't think he's 9 referencing the box above? 10 MR. DELINSKY: Object to 11 form. 12 THE WITNESS: Based on this 13 document, I'm unable to provide 14 corporate knowledge as to what Mr. 15 Mortelliti meant when he said 16 that. 17 MR. DELINSKY: Let's take a 18 break. 19 MR. KENNEDY: Sure. 20 VIDEO TECHNICIAN: The time 21 is 5:10 p.m. We're going off the 22 record. 23 - - - 24 (Whereupon, a brief recess</p>
<p style="text-align: right;">Page 411</p> <p>1 THE WITNESS: I reviewed 2 this document -- 3 MR. KENNEDY: I'm going to 4 object to the speeches. 5 But go ahead, please. 6 THE WITNESS: I reviewed 7 this document only very recently 8 and did not have an opportunity to 9 discuss it with Mr. Mortelliti. 10 BY MR. KENNEDY: 11 Q. When did you review it? 12 What day? 13 A. To the best of my 14 recollection, it was yesterday. It may 15 have been among some documents I saw on 16 Friday night. 17 Q. Let's go to the next box 18 down. Next box down under business 19 drivers, all right? 20 It states, We can be fined 21 or penalized by the DEA due to the 22 current environment. 23 Do you agree -- does CVS 24 agree with that statement by Mr.</p>	<p style="text-align: right;">Page 413</p> <p>1 was taken.) 2 - - - 3 VIDEO TECHNICIAN: The time 4 is 5:25 p.m. We're back on the 5 record. 6 BY MR. KENNEDY: 7 Q. Sir, when we took a break, 8 we were talking about Exhibit-16. And 9 that's the business idea description. 10 Mr. Mortelliti, when he 11 indicated that CVS was noncompliant with 12 DEA expectations, it was his position 13 that the problem was that controlled 14 drugs were not being monitored by active 15 ingredient, true? 16 See where he states, We need 17 our controlled drugs to be monitored by 18 active ingredient. Currently, the 19 controlled drugs are monitored by item? 20 So he felt that the 21 controlled drugs needed to be monitored 22 in the IRR by active ingredient, correct? 23 A. I see the language that 24 you've cited in the document.</p>

<p style="text-align: right;">Page 414</p> <p>1 Q. Go to Exhibit-24, then. 2 - - - 3 (Whereupon, CVS-Vernazza 4 Exhibit-24, CVS-MDLT1-000075542, 5 was marked for identification.) 6 - - - 7 BY MR. KENNEDY: 8 Q. Exhibit-24 is within days of 9 what we've been looking at. 10 Do you have that in front of 11 you? 12 A. Yes. But I don't know that 13 to be the case. I don't understand what 14 the date of the document that's 15 Exhibit-16 is. 16 Q. You're talking about the 17 document that says, The DEA is 18 noncompliant? 19 MR. DELINSKY: Object to 20 form. 21 BY MR. KENNEDY: 22 Q. Is that the one? 23 MR. DELINSKY: Object to 24 form.</p>	<p style="text-align: right;">Page 416</p> <p>1 I sent you an e-mail about two weeks ago 2 explaining why I am handling the 3 controlled drug IRR for the time being. 4 You may want to forward it to Dean. 5 He states -- and this is, 6 apparently, the e-mail he had sent two 7 weeks earlier -- Dean, there is a rewrite 8 we are trying to get approved for the 9 controlled drug IRR -- that's the report. 10 The current report shows controlled drugs 11 by item instead of active ingredient, 12 (such as PSE). We thought this would be 13 a great idea at the time, but what we 14 found was that the system cannot match 15 historical data to an item if the 16 manufacturer changes the name of the item 17 (Todd can forward you the example). 18 Now, he gives an example, 19 hydro 5MG can be changed to hydro MG5; 20 same item, just put the 5 in front of the 21 MG. The system can't match this item 22 because of the change and, therefore, 23 loses historical data. This is why you 24 are seeing zero for historical ordering</p>
<p style="text-align: right;">Page 415</p> <p>1 THE WITNESS: The document, 2 as you represented, that was Mr. 3 Mortelliti's statement, but not 4 the company's position. 5 I understand that there was 6 an e-mail attached to this that 7 wasn't there that may have 8 provided the date. I don't know 9 the date of the e-mail. 10 BY MR. KENNEDY: 11 Q. Let's go to Exhibit-24. 12 Up at the top, Mr. 13 Mortelliti is sending an e-mail to Todd 14 Jason, correct? 15 A. It says Jason. 16 Q. Janson, I'm sorry. 17 Is that correct? 18 A. From John Mortelliti to Todd 19 Janson, that's what I see. I don't 20 believe this is a document I reviewed. 21 Q. Sent on 10/12/2010, true? 22 A. That appears to be the date 23 of the top e-mail. 24 Q. Mr. Mortelliti states, Todd,</p>	<p style="text-align: right;">Page 417</p> <p>1 (usually LAGs 3-6). 2 Long story short, we are 3 having controlled drugs listed by active 4 ingredient (like PSE). Until then, I 5 will be doing the controlled drug IRR for 6 the network so there won't be as much 7 confusion trying to decipher the report 8 in its current form. 9 Now, when he says that -- 10 Mr. Mortelliti says he's going to do it 11 for the network, that means for the 12 entire country, would that be true? 13 A. I don't have knowledge as to 14 what specifically Mr. Mortelliti meant 15 when he said that. His statement is 16 consistent with the notion that he would 17 be doing it chain-wide. 18 I know for a period of time 19 that Mr. Mortelliti was reviewing the 20 report chain-wide. 21 Q. And he gives an example of 22 how small of a change there might be that 23 would cause all of the historical data to 24 disappear.</p>

Page 418

1 Do you see that? He says,
 2 Hydro -- if you go back -- Hydro 5MG can
 3 be changed to hydro MG5. I mean, he's
 4 indicating that a change that simple by
 5 the manufacturer and then the system
 6 cannot match the item and loses
 7 historical data.
 8 Do you see that?
 9 A. I see language to that
 10 effect in Mr. Mortelliti's e-mail. I
 11 don't know exactly what he's talking
 12 about.
 13 Q. Well, did CVS, at that point
 14 in time, understand that a change that
 15 small, that small of a change, would
 16 cause the report to lose all historical
 17 data? Did it understand that at that
 18 point in time?
 19 A. I don't have corporate
 20 knowledge on that particular detail, nor
 21 whether or not that's exactly what Mr.
 22 Mortelliti was referring to in this
 23 e-mail.
 24 Q. The last paragraph he

Page 419

1 states, You are right. These are not new
 2 drugs. However, there is a change in the
 3 drug info supplied by the
 4 manufacturer/vendor. The change can be
 5 so small that you wouldn't be able to
 6 catch it unless you were looking real
 7 hard. I found this out through
 8 experience.
 9 So he's indicating that the
 10 change can be small and you lose
 11 historical data, correct?
 12 MR. DELINSKY: Object to
 13 form.
 14 BY MR. KENNEDY:
 15 Q. Would you agree with that?
 16 A. I see the statement where
 17 Mr. Mortelliti says the change could be
 18 so small that you wouldn't be able to
 19 catch it unless you're looking real hard.
 20 I don't have further
 21 information as to what Mr. Mortelliti
 22 meant by that.
 23 - - -
 24 (Whereupon, CVS-Vernazza

Page 420

1 Exhibit-23,
 2 CVS-MDLT1-000034168-171, was
 3 marked for identification.)
 4 - - -
 5 BY MR. KENNEDY:
 6 Q. Let me show you 23,
 7 Exhibit-23, still talking about the IRR.
 8 Go all the way to the last
 9 page, if you would. That's where the
 10 first e-mail starts.
 11 The first e-mail is, again,
 12 from Mr. Mortelliti, it's dated October
 13 5, 2010, correct?
 14 A. That's correct.
 15 Q. And it's to a relatively
 16 large group of people at CVS, true?
 17 A. There's several individuals
 18 here.
 19 Q. And the subject is,
 20 Controlled drug IRR important info.
 21 Importance, high.
 22 Is that correct?
 23 A. You stated the subject
 24 correctly, and the importance is rated as

Page 421

1 high.
 2 Q. And he states, The issue
 3 with hydro items -- that would be HCPs,
 4 true? Hydrocodone drugs?
 5 A. Presumably. If he's using
 6 the term "hydro" in connection with
 7 distribution of that product by CVS, we
 8 would be talking about hydrocodone
 9 combination products.
 10 Q. And at this point in time,
 11 did CVS understand that hydro items,
 12 HCPs, hydrocodone drugs, at this point in
 13 time, were at the center of the opioid
 14 crisis in the United States? Did CVS
 15 understand that by 2010?
 16 MR. DELINSKY: Object to
 17 form. Object as outside the scope
 18 of the deposition notices.
 19 You may answer to the extent
 20 you have knowledge.
 21 THE WITNESS: I don't have
 22 corporate knowledge as to whether
 23 or not CVS would have understood
 24 hydro to be at the center of the

Page 422

1 opioid crisis at this time.
 2 BY MR. KENNEDY:
 3 Q. This states, The issue with
 4 hydro items last month -- so now they're
 5 talking about an issue with hydro in
 6 September.
 7 The issue with hydro items
 8 last month appears to be happening again
 9 this month with several items. This
 10 includes all drugs that end with PAM,
 11 many and items. The deletions are done
 12 by CVS.
 13 Do you understand that, the
 14 blackouts?
 15 A. My understanding is that
 16 they would have been redacted pursuant to
 17 court order or agreement.
 18 Q. And he next states, I
 19 verified the entire network -- that would
 20 be the entire country -- I verified the
 21 entire network this morning and there
 22 were no controlled drug suspicious
 23 orders.
 24 A. I see that.

Page 423

1 Q. Look up to the next e-mail.
 2 Same day. It looks like it's, who knows,
 3 a half hour later, or so.
 4 Mr. Mortelliti writes again,
 5 now to Gary Misiaszek, subject,
 6 Controlled drug IRR important.
 7 Importance, high.
 8 He states, Gary, it looks as
 9 though the same issue we had with hydro
 10 items is now happening in several items.
 11 The report is about a half-inch thick and
 12 only about five total items have
 13 historical data. The report definitely
 14 will need to be changed to active
 15 ingredient.
 16 Let me ask you, at this
 17 point in time, if you have a report that
 18 is a half-inch thick of single sheets of
 19 paper that is identifying potentially
 20 suspicious orders and only five of them
 21 had historical data so that they could be
 22 reviewed, would you agree that that is a
 23 very significant problem for CVS at this
 24 point in time, with respect to its

Page 424

1 monitoring program?
 2 MR. DELINSKY: Object to
 3 form.
 4 BY MR. KENNEDY:
 5 Q. Five items with a -- five
 6 items with an inch-thick stack of papers;
 7 would you agree this is a big problem at
 8 this point?
 9 A. I don't have corporate
 10 knowledge as to the particular problem
 11 that's being discussed here.
 12 It appears, from this
 13 document, that items are being populated
 14 on the report. And it looks like Mr.
 15 Mortelliti is saying that these -- some
 16 of the items don't have historical data.
 17 What exactly he means by
 18 "historical data" and how that would have
 19 impacted his review of the report, I
 20 can't say.
 21 Q. You do not -- sir, without
 22 historical data, you can't evaluate an
 23 order of a controlled substance, correct?
 24 That's the problem.

Page 425

1 A. The IRR report took into
 2 account historical data.
 3 Q. Correct.
 4 A. So if an order made it onto
 5 the IRR report, it would have been
 6 historical data considered.
 7 Additionally, Mr. Mortelliti
 8 would have available to him additional
 9 resources that would be able to reflect
 10 historical data.
 11 So I just don't know exactly
 12 what this means.
 13 Q. What it means to Mr.
 14 Mortelliti, from what we have already
 15 looked at in Exhibit-16, what this means
 16 to him, that there's only five items with
 17 historical data on a stack of papers an
 18 inch thick, what it means to Mr.
 19 Mortelliti, as we've already seen, is
 20 that CVS is noncompliant with DEA
 21 expectations, right? That's what it
 22 means to him?
 23 MR. DELINSKY: Object to
 24 form.

Page 426

1 THE WITNESS: I don't know
2 that to be the case.
3 - - -
4 (Whereupon, CVS-Vernazza
5 Exhibit-111,
6 CVS-MDLT1-000103859-867, was
7 marked for identification.)
8 - - -
9 BY MR. KENNEDY:
10 Q. Still talking about the
11 active ingredients and the IRR report,
12 Exhibit-111 is an e-mail from Christopher
13 Tulley.
14 Who is that?
15 A. I have not spoken to Mr.
16 Tulley in preparation for this
17 deposition. I have heard his name.
18 To the best of my corporate
19 knowledge, he works within the corporate
20 logistics team, but I am not certain.
21 Q. The date on this is
22 10/29/2010, true?
23 A. The sent date of the e-mail
24 reflects 10/29/2010, yes.

Page 427

1 Q. And the e-mail attaches --
2 let's look at the attachment. It's
3 titled, Logistics Core Team Update,
4 November 1, 2010, true?
5 A. Logistics core team update,
6 dated November 1, 2010. That is correct.
7 Q. Frank Devlin's name is on
8 this, true?
9 A. Frank Devlin's name is on
10 this.
11 Q. Bullet Point 3, it states,
12 Controlled drug suspicious order
13 monitoring is being reworked to identify
14 active ingredients versus product name.
15 That's exactly what Mr.
16 Mortelliti said needed to be done so that
17 you could solve this problem with the IRR
18 report, correct?
19 A. The shift from active
20 ingredient with product name would be
21 consistent with some of the discussions
22 that we've seen in the documents that Mr.
23 Mortelliti authored.
24 Q. That was --

Page 428

1 A. I can't say exactly what Mr.
2 Mortelliti meant in those documents, as
3 I've testified.
4 But the language would be
5 consistent with the language I see here.
6 Q. It's consistent with the
7 language in Exhibit-16, right, where he
8 says, We need controlled drugs to be
9 monitored by active ingredient.
10 Currently, the controlled drugs are
11 monitored by item. The IRR loses all
12 order history when the info on the item
13 changes, causing CVS to be noncompliant
14 with DEA expectations.
15 He's talking about active
16 ingredient all the way back in '16,
17 correct?
18 A. Again, I'm not certain what
19 Mr. Mortelliti was referring to in
20 Exhibit-16. And, certainly, it is not
21 CVS's corporate position that it was not
22 compliant with DEA regulations.
23 There is discussion in that
24 document of a shift from the IRR using

Page 429

1 item name and moving to using the active
2 ingredient. That's also reflected in
3 this document. And it's also
4 independently something that, in the
5 course of preparation for this
6 deposition, I understand that the company
7 did do.
8 - - -
9 (Whereupon, CVS-Vernazza
10 Exhibit-17,
11 CVS-MDLT1-000024523-524, was
12 marked for identification.)
13 - - -
14 MR. GOETZ: 17.
15 BY MR. KENNEDY:
16 Q. 17 is a -- now we're into
17 2011 now. And it's March 21, 2011.
18 We have an e-mail here from
19 Francis Devlin, correct?
20 A. I'm sorry, are you looking
21 at the bottom e-mail or the top e-mail?
22 Q. The top e-mail -- excuse me,
23 let's look at the bottom e-mail, because
24 that's the chronological order.

Page 430

1 It's an e-mail from Andrade
2 John, right, dated March 21, 2011, true?
3 A. No. I see the bottom e-mail
4 being a message from Mr. Misiaszek to
5 Frank Devlin and Tom McHugh.
6 Q. I'm talking about the March
7 21, 2011, 9:52.
8 A. March 21, 2011, 9:52. So
9 that would be the second one down from
10 the top?
11 Q. Second one down.
12 And Andrade is sending an
13 e-mail, Subject, suspicious order
14 monitoring modifications.
15 Do you see that?
16 A. I do.
17 Q. And it says, Frank, there
18 are three requests in the queue related
19 to the DEA.
20 And number two is suspicious
21 order monitoring retunement.
22 Is that relating to this
23 issue and problem with the active
24 ingredients in the IRR review report?

Page 431

1 A. I don't know. I've seen
2 some document from the Buzzeo Group that
3 spoke to a retunement to the system that
4 would have been done in connection with
5 and in consultation with the Buzzeo
6 Group. That's where I know that term
7 retunement from, or I recognize that term
8 retunement from. So I don't have
9 knowledge as to whether or not that
10 bullet point refers to any of the other
11 documents we've been looking at.
12 Q. With respect to these three
13 requests up above, does Devlin state, in
14 the e-mail right up above, John, all
15 three are critical and could cause a
16 problem if we don't complete?
17 Is that what's stated by Mr.
18 Devlin up above?
19 A. Yes. In the top e-mail I
20 see, John, all three are critical and
21 could cause a problem if we don't
22 complete, in an e-mail sent from Frank
23 Devlin.
24 I don't know what he's

Page 432

1 referring to in this e-mail, though.
2 Q. Take a look, if we can, at
3 Exhibit-18A.
4 - - -
5 (Whereupon, CVS-Vernazza
6 Exhibit-18A,
7 CVS-MDLT1-000029864-866, was
8 marked for identification.)
9 - - -
10 BY MR. KENNEDY:
11 Q. This is a -- this is an
12 e-mail from Misiaszek, do you see that?
13 A. Gary Misiaszek, yes.
14 Q. Employed at CVS Pharmacy,
15 Inc.?
16 A. Good question. I don't have
17 specific corporate knowledge about that.
18 I believe Mr. Misiaszek is within the
19 corporate IT group and would have been
20 employed by CVS Pharmacy, Inc.
21 Q. And sent out to a large
22 group of people at CVS for one or more
23 CVS different entities; would that be
24 correct?

Page 433

1 A. I'm sorry, could you repeat
2 the question?
3 Q. Sent out to a large group of
4 people at CVS, this e-mail?
5 A. Sent out to a group of
6 people.
7 Q. And the date is 4/29/2011,
8 right? We are now into April of 2011,
9 correct?
10 A. The e-mail was sent in April
11 of 2011.
12 Q. And this issue with the IRR
13 report, where, at least according to Mr.
14 Mortelliti, is causing CVS to be
15 noncompliant with DEA expectations, that
16 discovery was made back in October of
17 2010, correct? So this would be some six
18 and-a-half months later, true?
19 MR. DELINSKY: Object to
20 form.
21 THE WITNESS: I'm not sure I
22 agree with the characterizations
23 of your question.
24 BY MR. KENNEDY:

<p style="text-align: right;">Page 434</p> <p>1 Q. Well, Mr. Mortelliti stated 2 that in Exhibit-16, did he not -- 3 A. Again, I don't -- 4 Q. -- noncompliant with DEA 5 expectations? 6 A. -- know what Mr. Mortelliti 7 was referring to here. And, certainly, 8 it's not the company's position. 9 Q. Well, let's look at the -- 10 this attachment. Attachments, 2011/4/28 11 logistics business support requests. 12 Do you know what that means? 13 This is a request to get something done; 14 is that your understanding? 15 A. I haven't had a chance to 16 review the document. If you could give 17 me just a minute, I can. 18 Q. Well, just -- we'll go to 19 the attachment in a minute. 20 But logistics business 21 support requests, do you know what that 22 means, just looking at that? 23 MR. DELINSKY: If you need 24 to read the document, review the</p>	<p style="text-align: right;">Page 436</p> <p>1 Q. It's -- they're calling it 2 logistics business support requests, 3 correct? That's what it's being called? 4 A. That is the subject of the 5 e-mail. I also see it referenced in the 6 title of the attachment and in the e-mail 7 itself. 8 Q. We've marked, this is 18A. 9 And what 18A is, a pull-out of a long, 10 thick, fat, spreadsheet report, okay? 11 That's what 18A is. 12 18 is the entire spreadsheet 13 that's very lengthy, all right? So 18A 14 is a pull-out of that. 15 A. I have no way of knowing if 16 that's true or not, but I'll accept your 17 representation. 18 Q. And 18A, if you see, as of 19 date, do you see that column? As of 20 date, and it says 4/25/11, all right? 21 A. I do. 22 Q. And the task is revisions to 23 IRR SOM system. 24 Do you see that? Do you see</p>
<p style="text-align: right;">Page 435</p> <p>1 document. 2 THE WITNESS: Just by the 3 title of the attachment, I don't 4 know what it means. 5 BY MR. KENNEDY: 6 Q. Let's look at the 7 attachment, then. 8 A. It would be helpful for me 9 to read the document to answer your 10 questions. 11 Q. Oh, you want to look at the 12 whole e-mail? 13 A. It's three paragraphs. But, 14 yes, the attachment -- 15 Q. I thought you wanted to look 16 at the attachment. 17 A. I'd like to look at both. 18 Q. Okay. 19 A. I've read the document, 20 thank you. 21 Q. All right. The 22 attachment -- do you know what this 23 attachment is? 24 A. I do not.</p>	<p style="text-align: right;">Page 437</p> <p>1 that? 2 A. Yes, I do. 3 Q. And then under business 4 lead, it has Devlin, Frank. 5 Do you see that? 6 A. I do. 7 Q. So, now, this is somebody 8 different than Mr. Mortelliti, correct? 9 This is somebody different? 10 A. Yes. Mr. Mortelliti was -- 11 he reported to Mr. Devlin. 12 Q. And Mr. Mortelliti, he is 13 the one who talked about the existence of 14 this problem with the IRR and CVS being 15 noncompliant with the DEA. He started 16 talking about that in October of 2010. 17 And now we're into April of 18 2011, and it looks like Frank Devlin, his 19 boss, has taken over this task, right? 20 MR. DELINSKY: Object to 21 form. 22 THE WITNESS: No, I don't 23 know that to be true. 24 BY MR. KENNEDY:</p>

<p style="text-align: right;">Page 438</p> <p>1 Q. Well, does it say, Business 2 lead, Frank Devlin? 3 A. It does say that. 4 Q. All right. And under 5 description, objectives, does it state, 6 DEA expects CVS to prevent suspicious 7 orders from being filled out of our DCs. 8 The current IRR does not provide the 9 proper information to meet the DEA's 10 needs. We need controlled drugs to be 11 monitored by active ingredient. 12 Currently, the controlled drugs are 13 monitored by item. The IRR loses all 14 order history when the info on the item 15 changes, causing CVS to be noncompliant 16 with DEA expectations. 17 Did I read that correct? 18 A. You read that correctly. I 19 believe it's the same language that was 20 included in the submission of the 21 business idea description -- 22 Q. Right. 23 A. -- in Exhibit-16. 24 Q. But now, instead of Mr.</p>	<p style="text-align: right;">Page 440</p> <p>1 being involved with this at this point, 2 are you just making that up? 3 MR. DELINSKY: Object to 4 form. 5 BY MR. KENNEDY: 6 Q. Are you just making that up? 7 A. No. I said I have no -- I 8 have no corporate knowledge that he was. 9 Q. Right. You have no idea, 10 right? 11 A. I have no idea if he was 12 involved in the process at this point. 13 Q. The only idea you would have 14 would be based upon the document that 15 says that he's the business lead on this 16 project at this point, right? 17 A. Right. And sometimes, in my 18 experience at the company, the person 19 deemed responsible for something may be 20 somebody at a higher level because that's 21 the level of sort of authorization that 22 needs to be associated with the 23 particular project. 24 I have no idea if that's the</p>
<p style="text-align: right;">Page 439</p> <p>1 Mortelliti, it's his boss that's leading 2 this -- the charge on this problem, 3 right? Now it's -- 4 A. No, I don't -- 5 Q. -- now it's Frank Devlin? 6 MR. DELINSKY: Object to 7 form. 8 THE WITNESS: I don't know 9 that to be true. Mr. Devlin, 10 again, is the supervisor of Mr. 11 Mortelliti. And I don't know 12 whether or not it was just 13 categorized that way in the system 14 because they assigned somebody, 15 within the chain of command at a 16 certain -- certain level, the 17 business lead for that particular 18 task. 19 I have no corporate 20 knowledge that Mr. Devlin became 21 involved in this or agreed with 22 the statements here. 23 BY MR. KENNEDY: 24 Q. Are you -- Mr. Devlin not</p>	<p style="text-align: right;">Page 441</p> <p>1 case -- 2 Q. You weren't even at the 3 company at 2010. 4 A. Exactly. I have no idea 5 whether that's the case. 6 Q. But from looking at this 7 document, we have Frank Devlin as the 8 business lead. And it is still saying, 9 and it's now been saying for six months, 10 that the IRR loses all order history when 11 the info and the item changes, causing 12 CVS to be noncompliant with DEA 13 expectations. 14 It's still saying this six 15 months later, right? 16 MR. DELINSKY: Object to 17 form. 18 THE WITNESS: I don't have 19 corporate knowledge as to the 20 length of time that this document 21 was in this format, or whether or 22 not Mr. Devlin was involved in the 23 creation of this document. 24 BY MR. KENNEDY:</p>

<p style="text-align: right;">Page 442</p> <p>1 Q. Did you review any 2 documents, talk to any witness at CVS, 3 that indicated that Mr. Mortelliti or Mr. 4 Devlin were wrong, were wrong when they 5 stated that CVS was noncompliant with DEA 6 expectations? 7 As of now, it's April of 8 2011. Any documents or any of the 40 9 witnesses tell you that when they had 10 their names attached to these statements, 11 they were wrong? 12 MR. DELINSKY: Object to 13 form. 14 BY MR. KENNEDY: 15 Q. Anybody? 16 MR. DELINSKY: Object to 17 form. 18 THE WITNESS: I have no 19 knowledge that Mr. Devlin was 20 involved in making a statement 21 like that. 22 BY MR. KENNEDY: 23 Q. Look at down here. See 24 where it says, Start? This is kind of --</p>	<p style="text-align: right;">Page 444</p> <p>1 Finish? That's probably when -- when are 2 they going to finish this project, this 3 fix so that CVS is compliant? And they 4 say December 31, 2011. That's when 5 they're expecting to finish. 6 That's another eight months 7 of noncompliance -- 8 MR. DELINSKY: Object to 9 form. 10 BY MR. KENNEDY: 11 Q. -- right? 12 MR. DELINSKY: Object to 13 form. 14 BY MR. KENNEDY: 15 Q. I mean, according to this 16 document, CVS is noncompliant, they don't 17 start working on getting compliant until 18 February of 2011, and they don't think 19 they're going to get compliant for eight 20 more months. 21 Is that an appropriate, fair 22 read of this document, sir? 23 MR. DELINSKY: Object to 24 form.</p>
<p style="text-align: right;">Page 443</p> <p>1 see where it says, Start? 2 A. I do. 3 Q. February 11, 2011. This was 4 discovered in October. 5 Can you explain to me, if 6 CVS is noncompliant with DEA expectations 7 and Mr. Mortelliti believes that in 8 October of 2010, can you tell me why 9 there is a four-month delay in starting 10 the project to correct the problem? Why 11 is there a four-month delay in starting? 12 MR. DELINSKY: Object to 13 form. 14 THE WITNESS: I don't have 15 corporate knowledge as to whether 16 there was a delay or why there was 17 a delay or whether this document 18 accurately reflects when the 19 project was -- began. 20 I don't have corporate 21 knowledge about this document, and 22 I just don't know what it means. 23 BY MR. KENNEDY: 24 Q. You see there it says,</p>	<p style="text-align: right;">Page 445</p> <p>1 THE WITNESS: No, it's not. 2 Because I've stated, it's not 3 CVS's position that it was 4 noncompliant with DEA regulations. 5 It had in place a system for 6 identifying suspicious orders, as 7 I've discussed. 8 I don't know the particular 9 issue that this is referring to, 10 or the manner in which that was 11 resolved, to the extent that it 12 needed to be resolved. 13 MR. GOETZ: This is 18 -- 14 MR. KENNEDY: If you want the 15 full. 16 That's 18. We marked 18A. 17 MR. GOETZ: That's 18. 18 - - - 19 (Whereupon, CVS-Vernazza 20 Exhibit-18, CVS-MDLT1-000029864, 21 with attachment, was marked for 22 identification.) 23 - - - 24 (Whereupon, CVS-Vernazza</p>

Page 446

1 Exhibit-25,
2 CVS-MDLT1-000029877-880, was
3 marked for identification.)
4 - - -
5 BY MR. KENNEDY:
6 Q. Take a look at Exhibit-25,
7 if you would, please.
8 This is an e-mail. This
9 e-mail is a month later from what we were
10 just looking at. So now this e-mail is
11 from Dean Vanelli.
12 And you know who he is,
13 correct? You've spoken with him?
14 A. I have.
15 Q. And he works for CVS
16 Pharmacy, Inc., true?
17 A. I believe that is true.
18 Q. And this e-mail is dated
19 5/25/2011. And it is attaching the
20 logistics business support requests
21 again, all right?
22 And I'll tell you, it's
23 attaching the same spreadsheet, but now
24 it's a month later, all right? Now it's

Page 447

1 a month later.
2 A. He appears to be forwarding
3 the e-mail that was sent earlier, with
4 the same attachment.
5 Q. With the same attachment.
6 But it's a month later,
7 correct?
8 A. Yes.
9 Q. And if we take a look at
10 this, the attachment on an e-mail now a
11 month later, it still has the business
12 lead as Frank Devlin, does it not?
13 A. It does.
14 Q. And it still states that the
15 IRR loses all order history when the info
16 on the item changes, causing CVS to be
17 noncompliant with DEA expectations,
18 correct?
19 It still states it?
20 A. That language is in the
21 document. Excuse me, actually, that
22 language is not in the document.
23 Did you say -- I believe you
24 said regulations. It says expectations.

Page 448

1 Q. Noncompliant with DEA
2 expectations, correct?
3 A. The language, not compliant
4 with DEA expectations, is in this
5 document. It is not CVS's position that
6 it was noncompliant with DEA regulations.
7 Q. I understand.
8 MR. DELINSKY: Counsel, is
9 this like Exhibit-18 and 18A, in
10 that the attachment represents an
11 extract of a much longer document?
12 MR. KENNEDY: Yes, 18.
13 Correct.
14 MR. DELINSKY: So what is
15 appended to the e-mail on 25 is an
16 extract from Exhibit-18?
17 MR. KENNEDY: Correct.
18 MR. DELINSKY: Thank you.
19 BY MR. KENNEDY:
20 Q. And, again, this is attached
21 to an e-mail a month later from what we
22 looked at.
23 It has the finish date of
24 12/31/2011, true?

Page 449

1 MR. DELINSKY: Object to
2 form.
3 THE WITNESS: To the best of
4 my ability to tell, based on the
5 documents that you've put in front
6 of me, it appears to be the same
7 exact document, and it appears to
8 just be forwarded in May of 2011.
9 BY MR. KENNEDY:
10 Q. And I know you've told us
11 that it's CVS's position that this
12 statement is incorrect, that CVS was
13 noncompliant with DEA expectations, but
14 can you tell me which person, of the 40
15 people you talked to, or which document
16 can you cite us to from CVS that
17 indicates that Mr. Devlin or Mr.
18 Mortelliti was wrong when this statement
19 was made beginning back in October of
20 2010 and continuing up to what we're
21 looking at in April of 2011?
22 MR. DELINSKY: Object to
23 form.
24 BY MR. KENNEDY:

Page 450

1 Q. Which person said that this
2 statement is wrong?
3 MR. DELINSKY: Object to
4 form.
5 THE WITNESS: I spoke to a
6 number of individuals who were
7 able to describe the system that
8 CVS had in place at the time to
9 detect suspicious orders, and
10 learned quite a bit about the way
11 that that system worked at that
12 period of time.
13 And none of those
14 individuals told me that they
15 thought that the system did not
16 comply with law.
17 BY MR. KENNEDY:
18 Q. So you're -- again, you're
19 sitting here today, as a lawyer who
20 wasn't working for CVS in 2010, and
21 you're disagreeing with Mr. Mortelliti,
22 who was reviewing this IRR every single
23 day, when he concludes that based upon
24 the IRR CVS is noncompliant?

Page 451

1 MR. DELINSKY: Object to
2 form.
3 THE WITNESS: No, I'm not
4 sitting here as a lawyer for CVS.
5 I'm sitting here in my capacity as
6 a corporate 30(b)(6)
7 representative.
8 I have undertaken an
9 investigation and preparation in
10 connection with this deposition.
11 And I can tell you that the
12 company's position is that the
13 company's system in place was one
14 that detected potentially
15 suspicious orders of controlled
16 substances and subjected them to
17 further review.
18 I discussed that system with
19 a number of people in preparation
20 for this deposition, and none of
21 them told me that the system did
22 not identify potentially
23 suspicious orders for further
24 review.

Page 452

1 MR. KENNEDY: I move to
2 strike as nonresponsive.
3 MR. GOETZ: And just so the
4 record is clear --
5 MR. KENNEDY: If we can take
6 a break.
7 MR. GOETZ: One second.
8 Just so the record is clear, that
9 Exhibit-25 is a pull-out from the
10 Bates number 29880. Just like the
11 prior one was a pull-out.
12 MR. KENNEDY: If we can take
13 a ten-minute break, please.
14 VIDEO TECHNICIAN: The time
15 is 6:06 p.m. We are going off the
16 record.
17 - - -
18 (Whereupon, a brief recess
19 was taken.)
20 - - -
21 VIDEO TECHNICIAN: The time
22 is 6:19 p.m. We're back on the
23 record.
24 BY MR. KENNEDY:

Page 453

1 Q. All right. So we've been
2 talking about the IRR drug report and the
3 issue with it not tracking by active
4 ingredient.
5 But I want to -- let's back
6 up to the beginning of the discovery of
7 the problem in October of 2010, all
8 right?
9 We've given you Exhibit --
10 MR. GOETZ: Exhibit-125.
11 - - -
12 (Whereupon, CVS-Vernazza
13 Exhibit-125, CVS-MDLT1-000034172;
14 Native, was marked for
15 identification.)
16 - - -
17 MR. GOETZ: And just so the
18 record is clear, for some reason,
19 when it printed it, has a Bates
20 number of 3417, and the actual
21 Bates number is 34172. The 2 got
22 cut off.
23 BY MR. KENNEDY:
24 Q. So this is an e-mail

Page 454

1 that Mr. Mortelliti -- dated October 6,
2 2010 at 9:30 a.m.
3 Do you see that e-mail?
4 A. You're talking about the
5 second e-mail down in the chain?
6 Q. Yes, sir.
7 He's copying his boss, Frank
8 Devlin, is he not?
9 A. I believe Mr. Mortelliti
10 reported to Mr. Devlin at this time.
11 Q. And the subject is,
12 Controlled drug IRR, important info,
13 importance, high.
14 Do you read that?
15 A. The subject is, Controlled
16 drug IRR important info. The importance
17 level is rated as high.
18 Q. And you understand that the
19 IRR report is what we've been talking
20 about that Mr. Mortelliti believed and
21 certainly stated, in October of 2010, the
22 problem with the report made CVS
23 noncompliant with DEA expectations;
24 that's what we're talking about, right?

Page 455

1 MR. DELINSKY: Object to
2 form.
3 THE WITNESS: No, I don't
4 believe that's consistent with my
5 testimony.
6 BY MR. KENNEDY:
7 Q. I didn't ask you that.
8 I asked you, do you
9 understand that this e-mail is in
10 relation to the IRR report that Mr.
11 Mortelliti has indicated has a problem
12 which is causing CVS to be noncompliant
13 with DEA expectations? Do you understand
14 this is the same IRR report we're talking
15 about?
16 A. I'm familiar with the term
17 "IRR." I have no reason to believe that
18 the term "IRR" means something different
19 in this e-mail than it meant in prior
20 exhibits that we've looked at.
21 Q. All right.
22 A. I also don't have a basis to
23 understand the statements of Mr.
24 Mortelliti in the prior exhibit that you

Page 456

1 just referenced.
2 And as I mentioned, that's
3 not the company's position with respect
4 to its compliance with DEA regulations.
5 MR. KENNEDY: And I move to
6 strike.
7 BY MR. KENNEDY:
8 Q. Mr. Mortelliti states in
9 this e-mail, in October of 2010, he
10 states, Gary, all but one item in the
11 network -- and network is the entire
12 country, correct?
13 A. Again, I don't know what Mr.
14 Mortelliti is referring to here. It
15 certainly could be that when he's saying
16 "the network" that he's referring to
17 chain-wide. I just don't know.
18 Q. He states, All but one item
19 in the network was missing three to four
20 items of LAG info on today's report.
21 Something else changed or just about
22 every company we deal with has changed
23 the description on their drugs. Whatever
24 you can do to help expedite this process

Page 457

1 would be greatly appreciated. I am now
2 reviewing the network controlled drug IRR
3 on common sense as opposed to IRR
4 historical data. I know, that is
5 scary...be nice.
6 Did I read that correctly?
7 A. I believe you read that
8 correctly.
9 Q. And when he is indicating --
10 first of all, when he's saying, help, can
11 you expedite this process, this is
12 October of 2010, and we don't have a fix
13 of this process for more than a year; is
14 that correct, sir?
15 A. I don't know that to be
16 true.
17 Q. And when he states that --
18 Mr. Mortelliti states he is now reviewing
19 the IRR for the entire network based upon
20 common sense as opposed to historical
21 data, and he states that that is scary,
22 do you know whether he meant scary for
23 CVS, or did he mean that that was scary
24 for the general public, the people of the

Page 458

1 United States who might be receiving and
2 consuming opioids because a suspicious
3 order was sent?
4 MR. DELINSKY: Object to
5 form.
6 THE WITNESS: I do not know
7 what Mr. Mortelliti meant when he
8 wrote that. I have no knowledge
9 on that whatsoever.
10 BY MR. KENNEDY:
11 Q. You don't know whether he
12 meant scary for CVS or scary for the
13 American public?
14 A. I don't know if it's either
15 of those or something else or none of
16 those. I don't know.
17 Q. Or both?
18 A. I have no knowledge, sir.
19 Q. Sir, this IRR report that
20 he's talking about, as we talked about,
21 it's the first step in your suspicious
22 order monitoring policy, correct? It is
23 the first step?
24 MR. DELINSKY: Object to

Page 459

1 form.
2 BY MR. KENNEDY:
3 Q. True?
4 A. The IRR is the step in which
5 orders get flagged for inclusion on a
6 report, pursuant to algorithms, and then
7 reviewed in order to determine whether or
8 not they are suspicious.
9 Q. This IRR report, this report
10 was not only the first step in your
11 monitoring process, it was also something
12 that was mandated by the DEA, correct?
13 It was mandated by the DEA?
14 MR. DELINSKY: Object to
15 form. Object on the grounds that
16 the question exceeds the scope of
17 the deposition topics as defined
18 by Special Master Cohen.
19 THE WITNESS: I'm not aware
20 of any DEA regulation that
21 mandates registrants to perform an
22 algorithmic analysis of orders in
23 the fashion that the IRR did.
24 - - -

Page 460

1 (Whereupon, CVS-Vernazza
2 Exhibit-119, CVS-MDLT1-000012286,
3 was marked for identification.)
4 - - -
5 BY MR. KENNEDY:
6 Q. Let me show you Exhibit-119.
7 Who is Paul Lawson?
8 A. Paul Lawson worked within
9 the loss prevention organization at the
10 Knoxville distribution center.
11 Q. And he is writing an e-mail
12 on 12/26/2011, is he not?
13 A. He appears to be.
14 Q. And the --
15 MR. KENNEDY: Should we go
16 off the Elmo?
17 VIDEO TECHNICIAN: I don't
18 have it on. Don't worry. Proceed
19 as you are. We are prepared.
20 MR. KENNEDY: I got you.
21 BY MR. KENNEDY:
22 Q. He's writing an e-mail on
23 12/26/2011, correct? Is that what we see
24 here?

Page 461

1 A. That's the sent date of the
2 e-mail.
3 Q. And it says, Subject, IRR
4 bullet points. Attachments, revised DEA
5 speaking points IRR.ppt.
6 Did I read that right?
7 A. IRR bullet points is the
8 subject. Revised DEA speaking points
9 IRR.ppt is what's indicated as the
10 attachment.
11 Q. Look at the last paragraph.
12 Do you see the last
13 paragraph? Could you read the first
14 sentence to us?
15 A. What Mr. Lawson wrote in
16 this e-mail --
17 Q. The first sentence of the
18 last paragraph, could you read that to
19 the jury?
20 MR. DELINSKY: Object to
21 form. Object to the form of the
22 question. Object to the
23 interruption of the witness.
24 THE WITNESS: What Mr.

Page 462

1 Lawson wrote in this e-mail, which
2 is not consistent with what I
3 understand to be the regulations,
4 as I've testified, is that the IRR
5 is mandated by the DEA, therefore,
6 we have to adhere to this
7 monitoring policy.
8 BY MR. KENNEDY:
9 Q. And you disagree with -- you
10 disagree with Mr. Lawson? Do you
11 disagree with Mr. Lawson?
12 MR. DELINSKY: Object to
13 form.
14 THE WITNESS: The DEA
15 suspicious order monitoring
16 regulation does not specifically
17 require an IRR.
18 BY MR. KENNEDY:
19 Q. I'm asking, do you disagree
20 with Mr. Lawson, who was an LP logistics
21 analyst at CVS, who worked in this field
22 every day, do you disagree with him when
23 he states the IRR is mandated by the DEA?
24 MR. DELINSKY: Object to

Page 463

1 form.
2 THE WITNESS: The company's
3 position is that there is no DEA
4 regulation that specifically
5 requires an IRR.
6 BY MR. KENNEDY:
7 Q. And your IRR report at CVS,
8 from October of 2010 to the end of '11,
9 over a year, was operating in a fashion
10 whereby Mr. Mortelliti believed that it
11 made CVS noncompliant with DEA
12 expectations, correct?
13 A. I don't know that to be
14 true.
15 Q. And this man says the IRR is
16 mandated by the DEA, does he not? That's
17 his statement; is that true?
18 A. I've read the statement in
19 the e-mail. The company's understanding
20 and position is that there is no DEA
21 regulation that specifically requires an
22 IRR.
23 The regulation requires a
24 system to detect suspicious orders. And

Page 464

1 it's the company's position that the
2 company had such a system.
3 Q. And your system was broken
4 from October of 2010, for over a year,
5 until the end of 2011; it was broken, was
6 it not? The IRR wasn't working, correct?
7 MR. DELINSKY: Object to
8 form.
9 THE WITNESS: I don't have
10 any understanding of that, no.
11 BY MR. KENNEDY:
12 Q. Didn't Mr. Mortelliti say
13 that he was looking at it, he was looking
14 at the entire country by himself, and
15 just applying common sense and it was
16 scary? That's a broken system, is it
17 not?
18 MR. DELINSKY: Object to
19 form.
20 THE WITNESS: I read the
21 e-mail that you're referencing.
22 BY MR. KENNEDY:
23 Q. Yes.
24 A. I also had communications

Page 465

1 with Mr. Mortelliti. I don't know what
2 the e-mail that you're referencing was
3 intended to convey.
4 I do know that I've had
5 discussions with Mr. Mortelliti and
6 that's not something he's conveyed to me.
7 Q. Did Mr. Mortelliti tell you
8 that he did not undertake the
9 responsibility to look at the entire
10 country of IRRs, all by himself, and
11 simply apply common sense? Did he tell
12 you he wasn't doing that?
13 MR. DELINSKY: Object to
14 form.
15 THE WITNESS: Based on my
16 discussions with Mr. Mortelliti,
17 he was responsible for reviewing
18 the IRR report on a daily basis.
19 He would take follow-up actions,
20 as he deemed appropriate, to
21 conduct further review and due
22 diligence of the items that were
23 on the report.
24 At no time did Mr.

Page 466

1 Mortelliti express that he was
2 unable to complete that process
3 due to the nature of the report.
4 BY MR. KENNEDY:
5 Q. Did he specifically tell you
6 that he was not reviewing the IRR based
7 on common sense and it was scary? Did he
8 tell you -- did he deny that, when you
9 spoke with him?
10 MR. DELINSKY: Object to
11 form.
12 BY MR. KENNEDY:
13 Q. Did he deny that when you
14 spoke?
15 MR. DELINSKY: Object to
16 form.
17 THE WITNESS: I did not ask
18 Mr. Mortelliti about that
19 particular e-mail. I don't
20 believe that I had seen that
21 e-mail when I had my discussions
22 with Mr. Mortelliti.
23 My conversations with Mr.
24 Mortelliti, and with others within

Page 467

1 CVS, are inconsistent with your
2 characterizations.
3 BY MR. KENNEDY:
4 Q. Did anybody at CVS deny the
5 fact -- deny the fact that Mr. Mortelliti
6 had to review this, based upon common
7 sense, for the entire country?
8 MR. DELINSKY: Objection.
9 BY MR. KENNEDY:
10 Q. Did anybody tell you that he
11 wasn't doing that because the IRR had no
12 historical data in it? Did anyone tell
13 you he was not doing that?
14 MR. DELINSKY: Object to
15 form.
16 THE WITNESS: I didn't have
17 any discussions or communications
18 on that particular point or those
19 particular words in this
20 particular document.
21 I undertook quite an
22 extensive set of interviews and
23 reviewed -- to prepare for this
24 deposition, and that was not

Page 468

1 something that was told to me.
2 BY MR. KENNEDY:
3 Q. Let me ask you this: We're
4 not talking about a one-week period or a
5 one-day period where there was a problem,
6 sir. You spent a month on this,
7 interviewed 40 people, reviewed hundreds
8 of documents.
9 We are talking about a
10 problem with their first step report, the
11 first step report, a problem that lasts
12 for over a year. And you never ask
13 anybody about it? Never ever told you
14 about it? You never heard about it?
15 Is that your testimony? You
16 never heard about this problem with the
17 IRR before I started asking you
18 questions?
19 MR. DELINSKY: Object to
20 form. Objection, misstates the
21 record.
22 THE WITNESS: I understand
23 that there was a process to move
24 from looking at the IRR being

Page 469

1 premised on items to active
2 ingredient, and that was viewed as
3 an enhancement to the IRR.
4 No, in the course of my
5 preparation for this deposition,
6 no one expressed that there was a
7 problem of a particular severity
8 around that or of the duration
9 that you have characterized.
10 I do not have corporate
11 knowledge about the particular
12 statements in that e-mail.
13 BY MR. KENNEDY:
14 Q. So your corporate knowledge
15 is missing an entire year with regard to
16 the effectiveness of their suspicious
17 order monitoring policy, right? You're
18 missing an entire year --
19 MR. DELINSKY: Object to
20 form.
21 BY MR. KENNEDY:
22 Q. -- correct? You're missing
23 a year?
24 MR. DELINSKY: Object to

<p style="text-align: right;">Page 470</p> <p>1 form. Object to the question, to 2 the extent -- or due to, in fact, 3 the fact that it misstates the 4 record and the testimony. 5 If you wish to provide the 6 information you have over this -- 7 regarding the suspicious order 8 monitoring processes of CVS over 9 the course of this supposed year, 10 you may do so. 11 MR. KENNEDY: I'm going to 12 move to strike. You can't ask the 13 witness to provide an answer and 14 then have him provide the answer 15 you asked him to provide. That's 16 not appropriate. You can't do 17 that. You can't do that. You 18 can't. That's not fair. That's 19 not right. And you know that. 20 MR. DELINSKY: Mr. Kennedy, 21 you're -- you are -- have 22 identified a single issue at a 23 single point in time and are 24 characterizing it as a gap in</p>	<p style="text-align: right;">Page 472</p> <p>1 the notice and subject to my 2 preparation. 3 MR. KENNEDY: Thank you. 4 VIDEO TECHNICIAN: The time 5 is 6:36 p.m. on November 20th, 6 2018. Going off the record. 7 Ending today's videotape session. 8 - - - 9 (Whereupon, the deposition 10 concluded at 6:36 p.m.) 11 - - - 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 471</p> <p>1 knowledge, without ever having 2 elicited the full scope of 3 knowledge that the witness does 4 have regarding that period of 5 time. 6 And I just don't think that 7 that's a fair characterization. 8 MR. KENNEDY: I will tell 9 you, I've got a thousand more 10 questions, and in the next seven 11 hours, I will get to it. 12 What is our time? 13 VIDEO TECHNICIAN: One. 14 MR. KENNEDY: One minute. 15 I'm not going to move to another 16 topic. 17 THE WITNESS: Mr. Kennedy, 18 to answer your question, I do not 19 believe that I have a one-year gap 20 in my knowledge with respect to 21 the system. I've undertaken quite 22 an extensive effort to prepare for 23 this deposition that included all 24 of the time that is at issue in</p>	<p style="text-align: right;">Page 473</p> <p>1 CERTIFICATE 2 3 4 I HEREBY CERTIFY that the 5 witness was duly sworn by me and that the 6 deposition is a true record of the 7 testimony given by the witness. 8 9 10 11 Amanda Maslynsky-Miller 12 Certified Realtime Reporter 13 Dated: November 23, 2018 14 15 16 17 (The foregoing certification 18 of this transcript does not apply to any 19 reproduction of the same by any means, 20 unless under the direct control and/or 21 supervision of the certifying reporter.) 22 23 24</p>

INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

ACKNOWLEDGMENT OF DEPONENT

I, _____, do hereby certify that I have read the foregoing pages, 1 - 472, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet.

MARK VERNAZZA	DATE
---------------	------

Subscribed and sworn
to before me this

_____ day of _____, 20____.

My commission expires:_____

Notary Public

ERRATA

PAGE LINE CHANGE/REASON

[illegible]

LAWYER'S NOTES

PAGE LINE

[illegible]